

**IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

TIMOTHY A. MOYER,	:	
	:	
Plaintiff	:	
	:	
v.	:	No. 16-2423
	:	
LINETTE A. LESHER,	:	
	:	
Defendant	:	
	:	
Robert S. Fryckland, Esquire		Counsel for Plaintiff
Linette A. Leshner		Pro Se

**MEMORANDUM OPINION**

Serfass, J. - June 12, 2018

Linette A. Leshner, (hereinafter "Defendant"), has taken this appeal from our order entered in this matter on April 18, 2018. We file the following Memorandum Opinion pursuant to Pennsylvania Rule of Appellate Procedure 1925(a) and recommend that the aforesaid order be affirmed for the reasons set forth hereinafter.

**FACTUAL AND PROCEDURAL HISTORY**

On October 11, 2016, Timothy Moyer (hereinafter "Plaintiff") initiated this action against Defendant with respect to the parties' minor child, S.A.M., and this Court entered a custody order on March 2, 2017. Our order required Defendant to obtain both a mental health evaluation and a comprehensive drug and alcohol evaluation within thirty (30) days of the date of the order and to follow any and all recommendations of said evaluations. Our order also required that Defendant provide a copy of said

evaluations to Plaintiff's counsel at least ten (10) days prior to the review hearing, scheduled in that same order for June 21, 2017. On June 22, 2017, this Court ordered the review hearing to reconvene on August 16, 2017, as Defendant had failed to obtain the required evaluations. On August 16, 2017, this Court ordered the review hearing to reconvene on November 22, 2017, because Defendant had again failed to obtain the required evaluations.

On November 14, 2017, Plaintiff filed a petition for contempt against Defendant for Defendant's failure to comply with our orders to obtain both a mental health evaluation and a comprehensive drug and alcohol evaluation.

On November 30, 2017, this Court entered a final custody order with respect to the parties' minor child, S.A.M.

On January 3, 2018, following a hearing, this Court entered an order adjudging Defendant to be in willful contempt and permitting Defendant to purge herself of contempt by paying Plaintiff's counsel fees in the amount of seven hundred fifty dollars (\$750.00) within sixty (60) days.

On March 14, 2018, Plaintiff filed a second petition for contempt against Defendant for failure to comply with our purge order dated January 3, 2018.

On April 18, 2018, following a hearing, this Court adjudged Defendant to be in willful contempt of our order of January 3, 2018. This Court permitted Defendant to purge herself of contempt

by paying the sum of seven hundred fifty dollars (\$750.00) as required by our order of January 3, 2018, as well as reimbursing Plaintiff for the counsel fees incurred regarding the second contempt petition in the amount of five hundred dollars (\$500.00) no later than 9:00 a.m. on May 18, 2018. Defendant was also directed to appear before this Court on May 18, 2018, at 9:00 a.m. for a status hearing as to Defendant's compliance with our order. In the event Defendant failed to appear or failed to comply with the purge conditions, Defendant would be incarcerated for a period of seventy-two (72) hours effective at 9:30 a.m. on May 18, 2018.

On May 17, 2018, Defendant filed notice of the instant appeal. Defendant neither served the undersigned with the appeal notice nor filed a supersedeas motion. Upon receiving that notice on May 18, 2018, this Court entered an order directing Defendant to submit a concise statement of matters complained of on appeal within twenty-one (21) days pursuant to Pennsylvania Rule of Appellate Procedure 1925(b).<sup>1</sup> On June 4, 2018, Defendant filed a concise statement of matters complained of on appeal providing that her "commencement of action is to Petition the Carbon Co. Court." Here again, Defendant failed to serve a copy of her Pa. R.A.P. 1925(b) statement on the undersigned.

---

<sup>1</sup> We note that Defendant's notice of appeal contained the following assertion: "The terms of the Court Order are unreasonable." Because we desired clarification of the error(s) complained of on appeal, we directed Defendant to file a Pa. R.A.P. 1925(b) statement.

## DISCUSSION

Defendant's concise statement is vague and fails to raise any discernible issues sought to be pursued on appeal. We decline to guess what issues Defendant was trying to raise in her concise statement as the Superior Court has held that such attempts would be futile. Commonwealth v. Lemon, 804 A.2d 34, 38 (Pa.Super. 2002).

The issues raised on appeal are waived when an appellant's concise statement is too vague for the trial court to identify and address any such issues. Commonwealth v. Dowling, 778 A.2d 683, 686 (Pa.Super. 2001). When a court must guess what issues an appellant is appealing, that is not enough for meaningful review. *Id.* (quoting Commonwealth v. Butler, 756 A.2d 55, 57 (Pa.Super. 2000)). Further, if an appellant does not adequately identify in a concise manner the issues sought to be pursued on appeal, the trial court is impeded in its preparation of a legal analysis pertinent to those issues. *Id.* (quoting In re Estate of Daubert, 757 A.2d 962, 963 (Pa.Super. 2000)). Ultimately, a concise statement that is too vague to allow the trial court to identify the issues raised on appeal is the functional equivalent of no concise statement at all. *Id.* at 686-87.

"The trial court may not frame the issues for an appellant, either by guessing or anticipating." Lemon, 804 A.2d at 38. Because Defendant's concise statement is vague, the issues Appellant wishes to raise on appeal would even be waived if this Court were

to correctly divine and address the issues in our Pa. R.C.P. 1925(a) opinion. *Id.*

Therefore, Defendant's vague concise statement prevents this Court from engaging in any meaningful review of the issues and any attempt to discern those issues would be futile.

**CONCLUSION**

For the reasons set forth hereinabove, we respectfully recommend that the instant appeal be denied and that our order of April 18, 2018, be affirmed accordingly.

**BY THE COURT:**

---

**Steven R. Serfass, J.**