

COMMONWEALTH

: IN THE COURT OF COMMON PLEAS OF
: CENTRE COUNTY, PENNSYLVANIA

v.

: No. CP-14-CR-2421-2011

: No. CP-14-CR-2422-2011

GERALD A. SANDUSKY

COMMONWEALTH'S MOTION FOR ISSUANCE
OF AN ORDER PURSUANT TO Pa.R.A.P. 1925(b)

TO THE HONORABLE JOHN M. CLELAND, SENIOR JUDGE SPECIALLY PRESIDING:

AND NOW, comes Linda L. Kelly, Attorney General of the Commonwealth of Pennsylvania, by James P. Barker, Chief Deputy Attorney General, who files this Commonwealth's Motion for Issuance of an Order Pursuant to Pa.R.A.P. 1925(b), and in support thereof avers as follows:

1. On July 12, 2012, Karl E. Rominger, Esquire, co-counsel for Defendant Gerald A. Sandusky, filed a notice of appeal to the Superior Court of Pennsylvania on his own behalf from an Order of Court dated June 26, 2012.
2. Contemporaneous with the filing of his notice of appeal, Attorney Rominger filed a Concise Statement of Matters Complained of on Appeal.

3. Under Pa.R.A.P. 1925(a), when a notice of appeal is filed, the judge who issued the order from which appeal is taken must set forth the reasons for the order or must specify in writing the place in the record where the reasons may be found.

4. Under Pa.R.A.P. 1925(b), in order to assist the Court in its obligation under Rule 1925(a), the judge may direct the appellant to file a concise statement matters complained of on appeal.

5. Rule 1925(b)(3) specifies that certain information be contained within an Order directing the filing of a concise statement of matters complained of on appeal.

6. If an Order issues pursuant to Rule 1925(b)(3), the appellant waives any issue not set forth in the concise statement of matters complained of on appeal. Rule 1925(b)(4)(vii).

7. By filing his Concise Statement of Matters Complained of on Appeal prior to the issuance of an Order under Rule 1925(b), Attorney Rominger subverts the intent of the Rule to identify any and all issues for appeal so that they may be addressed in the first instance by this Court, as any additional issues that Attorney Rominger may raise in the Superior Court are not subject to the waiver rule.

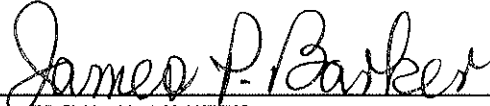
WHEREFORE, the Commonwealth respectfully requests that the Court enter an Order granting this Commonwealth's Motion for Issuance of an Order Pursuant to Pa.R.A.P. 1925(b) and directing Attorney Rominger to file a concise statement of matters complained of on appeal as provided by Pa.R.A.P. 1925(b)(3), subject to waiver under Pa.R.A.P. 1925(b)(4)(vii).

Respectfully submitted,

LINDA L. KELLY
Attorney General

RICHARD A. SHEETZ, JR.
Executive Deputy Attorney General
Director, Criminal Law Division

By:


JAMES P. BARKER
Chief Deputy Attorney General
Attorney No. 67315
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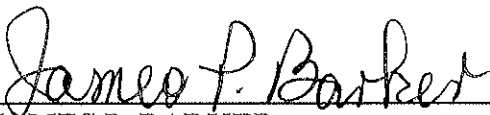
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16th Floor-Strawberry Square
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(717) 705-0098
(Fax) (717) 783-5431

Date: July 26, 2012

VERIFICATION

The facts recited in the foregoing motion are true and correct to the best of my knowledge and belief. This statement is made with knowledge that a false statement is punishable by law under 18 Pa. C.S. § 4904(b).

By:



JAMES P. BARKER
Chief Deputy Attorney General
Attorney No. 67315
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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving one copy of the foregoing Commonwealth's Motion for Issuance of an Order Pursuant to Pa.R.A.P. 1925(b) upon the persons and in the manner indicated below:

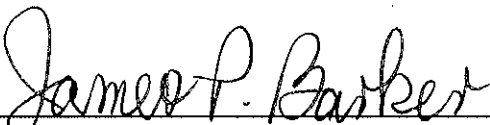
*Via U.S. First-Class Mail,
Postage pre-paid:*

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