

COMMONWEALTH COURT OF PENNSYLVANIA

Mustafa Ali v. Unknown CERT Team Members and Pennsylvania Department of Corrections

No. 592 C.D. 2024 (Commonwealth Court of Pennsylvania 2025) · No. 592 C.D. 2024 · Decided March 27,
2025

SUMMARY

The Pennsylvania Commonwealth Court remanded Mustafa Ali's appeal to the Schuylkill County Court of Common Pleas to determine whether his untimely Pennsylvania Rule of Appellate Procedure 1925(b) statement should be accepted nunc pro tunc. The court held that Ali had shown sufficient good cause for a remand based on his claim that he did not receive the trial court's order because of prison mail-control-number requirements. The trial court was directed to dispose of the nunc pro tunc request and, if warranted, prepare a supplemental Rule 1925(a) opinion.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Anne E. Covey; Lori A. Dumas; Matthew S. Wolf
JURISDICTION	Commonwealth Court of Pennsylvania
DECIDED	March 27, 2025
DOCKET	592 C.D. 2024
DISPOSITION	remanded
PROCEDURAL POSTURE	Ali appealed from the Schuylkill County Court of Common Pleas order sustaining the Pennsylvania Department of Corrections' preliminary objections and dismissing his amended complaint. The Commonwealth Court addressed whether Ali waived all appellate issues by failing to timely file a Pennsylvania Rule of Appellate Procedure 1925(b) statement.
STANDARD OF REVIEW	The Commonwealth Court reviewed whether the circumstances surrounding Ali's untimely Rule 1925(b) statement established good cause and extraordinary circumstances warranting a remand for nunc pro tunc relief.
PRECEDENTIAL VALUE	Published and precedential Commonwealth Court opinion

PARTIES

Mustafa Ali v. Unknown CERT Team Members, Pennsylvania
Department of Corrections

TOPICS

appellate procedure preservation of error civil procedure

PRACTICE AREAS

appellate procedure civil procedure prison conditions litigation

QUESTIONS PRESENTED

1. Whether Ali waived all issues on appeal by failing to timely file a Pennsylvania Rule of Appellate Procedure 1925(b) statement.
2. Whether Ali's explanation that prison mail screening prevented timely receipt of the trial court's Rule 1925(b) order constituted a request for nunc pro tunc relief and established good cause for a remand under Rule 1925(c).

HOLDINGS

1. A pro se appellant's explanation for an untimely Rule 1925(b) filing may be construed as a request for nunc pro tunc relief when the explanation fairly conveys the basis for the delay and the requested relief.
2. If Ali proves that he did not timely receive the trial court's Rule 1925(b) order because the court failed to include a required or correct prison-mail control number, that circumstance would constitute a breakdown in court operations and extraordinary circumstances justifying nunc pro tunc relief.

KEY QUOTATIONS

"If Ali can prove that he did not timely receive the trial court's May 28 Order directing him to submit a Rule 1925(b) Statement because the trial court did not properly address the envelope containing the May 28 Order, by either failing to include a control number or failing to include the correct control number, and these circumstances caused Ali's late filing, such would represent a breakdown in the operations of the court and constitute extraordinary circumstances justifying nunc pro tunc relief." (at 5)

"For all of the above reasons, this matter is remanded to the trial court to determine whether Ali's Rule 1925(b) Statement should be accepted nunc pro tunc." (at 6)

FACTUAL BACKGROUND

Ali, an inmate at the State Correctional Institution at Mahanoy, alleged that unknown CERT members negligently damaged his personal property. He asserted that he did not timely receive the trial court's May 28, 2024 order directing him to file a Rule 1925(b) statement because prison mail screening allegedly rejected the order for lacking a required control number. After receiving the order on June 26, 2024, he mailed his Rule 1925(b) statement and sent the Commonwealth Court documentation supporting his explanation.

PROCEDURAL HISTORY

Ali filed a complaint against unknown members of the Department of Corrections' Crisis and Emergency Response Team and later amended it to add the Department. The trial court sustained the Department's preliminary objections, dismissed the amended complaint, and denied Ali's motions to compel and for an extension of time. After the trial court directed Ali to file a Rule 1925(b) statement, it concluded that his untimely filing waived all issues. The Commonwealth Court remanded for the trial court to determine whether Ali's Rule 1925(b) statement should be accepted nunc pro tunc and, if necessary, to prepare a supplemental Rule 1925(a) opinion.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The matter was remanded to the Schuylkill County Court of Common Pleas to dispose of Ali's March 28, 2024 nunc pro tunc request and, if necessary, conduct an evidentiary hearing within 60 days. The trial court must transmit a supplemental record within 90 days, including its order on the request and any supplemental Rule 1925(a) opinion. The Commonwealth Court retained jurisdiction. If nunc pro tunc relief is warranted, the trial court must prepare a supplemental Rule 1925(a) opinion addressing the issues in Ali's Rule 1925(b) statement.

CASES CITED

- *Kozicki v. Unemployment Comp. Bd. of Rev.*, 299 A.3d 1055, 1063 (Pa. Cmwlth. 2023)
- *Commonwealth v. Blakeney*, 108 A.3d 739, 766 (Pa. 2014)
- *Commonwealth v. Alaouie*, 837 A.2d 1190, 1193 (Pa. Super. 2003)
- *Harris v. Unemployment Comp. Bd. of Rev.*, 247 A.3d 1223, 1229 (Pa. Cmwlth. 2021)
- *Triple Crown Corp. v. Lower Allen Twp.*, 327 A.3d 748, 754 (Pa. Cmwlth. 2024)
- *Jaramillo v. Schuylkill Cnty. Tax Claim Bureau* (Pa. Cmwlth. No. 1007 C.D. 2023, filed Jan. 22, 2025), slip op. at 4
- *Super v. Pruden* (Pa. Super. No. 2256 EDA 2020, filed Nov. 5, 2021), slip op. at 11
- *Lerch v. Unemployment Comp. Bd. of Rev.*, 180 A.3d 545, 550 (Pa. Cmwlth. 2018)
- *Greco v. City of Wilkes-Barre* (Pa. Cmwlth. No. 1425 C.D. 2019, filed May 18, 2020)

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