

2025 PA Super 168

CHRISTINE BIROS	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
U LOCK, INC., A PENNSYLVANIA	:	
CORPORATION	:	
	:	No. 113 WDA 2024
	:	
APPEAL OF: SHANNI SNYDER	:	

Appeal from the Order Entered December 19, 2023
In the Court of Common Pleas of Westmoreland County Civil Division at
No(s): 17 CJ 04886

BEFORE: LAZARUS, P.J., BOWES, J., and KING, J.

OPINION BY LAZARUS, P.J.:

FILED: August 1, 2025

Shanni Snyder appeals from the order, entered in the Court of Common Pleas of Westmoreland County, denying, with prejudice, her motion for leave to file her Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal, nunc pro tunc. After review, we vacate the order and remand to the trial court for further proceedings.

This matter stems from litigation between Appellee Christine Biros and former Appellant, U Lock, Inc. (ULI). Previously, the trial court imposed a constructive trust on real property to be conveyed to Biros by ULI, and this Court affirmed the imposition of the trust on appeal. ***See Biros v. U Lock Inc.***, 255 A.3d 489, 497 (Pa. Super. 2021). After this Court affirmed its prior ruling, the trial court ordered the delivery of deeds to Biros on January 24, 2022. On March 17, 2022, ULI filed, inter alia, a petition to strike the trial

court's January 24, 2022 order. The trial court denied ULI's motion on May 17, 2022 and granted a writ of possession for the contested property to Biros. ULI again sought appellate review of the trial court's ruling and subsequent orders.

On July 19, 2023, Biros filed an application to dismiss the then-pending appeals at 615 WDA 2022 and 617 WDA 2022. On July 21, 2023, based upon an order by the United States Bankruptcy Court for the Western District of Pennsylvania, Shanni Snyder was substituted in the instant matter as successor-in-interest to ULI,¹ making her the Appellant. On September 8, 2023, a prior panel of this Court granted Biros' application to dismiss the appeals at 615 WDA 2022 and 617 WDA 2022, without prejudice to Snyder's right to file a motion for leave to file a Rule 1925(b) statement, nunc pro tunc with the trial court.

On September 19, 2023, Snyder filed an application for reconsideration, which we denied on September 29, 2023. This Court remanded the record to the trial court on October 24, 2023. Snyder then petitioned for allowance of appeal to the Supreme Court of Pennsylvania on October 26, 2023.

This Court's September 8, 2023 order was docketed with the trial court on October 30, 2023. On November 1, 2023, while Snyder's petition for allowance of appeal was still pending, Snyder filed a motion for leave to file her Rule 1925(b) statement, nunc pro tunc, which was denied, with prejudice,

¹ Snyder had taken ownership of all of ULI's "intangible rights," including its appellate rights, through the bankruptcy proceedings.

by the trial court on December 19, 2023. **See** Order, 12/19/23. On January 18, 2024, Snyder attempted to electronically file a notice of appeal from the December 19, 2023 order in the trial court, but the filing was rejected. Snyder alleges that, after her January 18, 2024 electronic filing was rejected, she properly filed the notice of appeal with the Westmoreland County Prothonotary's Office on January 19, 2024. **See** Snyder's Reply Brief, at 2; **see also** Notice of Appeal, 1/19/24. The docketed notice of appeal contains a message from the Westmoreland County Prothonotary, dated January 18, 2024, informing Snyder that her filing was rejected because it could not accept the filing of an appeal through its electronic filing system.² **See** Notice of Appeal, 1/19/24 (accompanying documentation).

On January 24, 2024, Biros filed an application to dismiss or quash Snyder's appeal for lack of jurisdiction. **See** Biros' Application to Dismiss, 1/24/24. Biros argued that, under Pennsylvania Rules of Appellate Procedure

² Westmoreland County Rule of Civil Procedure W205.4 provides, in relevant part, as follows:

(a)(1) Except as noted below, use of the Westmoreland County electronic filing system is permissive for the filing of all legal papers in the Civil Division and Family Division, in all actions and proceedings brought in or appealed to the Court.

A. Use of the Westmoreland County electronic filing system is not permitted for the following Civil Division filings:

1. Notice of Appeal to the Superior, Commonwealth[,], or Supreme Courts[.]

Rule W205.4(a)(1)(A)(1).

902 and 903, a notice of appeal must be filed within 30 days after entry of the order from which the appeal is taken. **See id.** at 3, citing Pa.R.A.P. 902 and 903. Biros claimed, based on the dates shown on the docket, that Snyder's notice of appeal was filed 31 days after the challenged trial court order, and, therefore, the appeal was untimely and must be quashed. **See id.** at 4.

On February 8, 2024, Snyder filed a response to Biros' application to dismiss, arguing that, by filing her notice of appeal electronically on January 18, 2024, she timely filed within the requisite 30-day window. **See** Snyder's Response to Application to Dismiss, 2/8/24, at 1-3. We denied Biros' application on March 1, 2024, without prejudice to her right to raise the issue in her appellate brief. **See** Order, 3/1/24. Biros again raised the issue of the timeliness of Snyder's notice of appeal in her brief, and, as such, we address it here. **See** Biros' Brief, at 1-2, 10, 22, 24-31.

A notice of appeal must be filed within 30 days after the entry of the order from which the appeal is taken. **See** Pa.R.A.P. 903. The timeliness of an appeal and compliance with the statutory provisions granting the right to appeal implicate our jurisdiction and competency to act. **Commonwealth v. Williams**, 106 A.3d 583, 587 (Pa. 2014). As we may not enlarge this timeframe absent extraordinary circumstances, an appellant's failure to appeal timely generally divests us of our jurisdiction to hear an appeal. **Id.**

Relevant here, Westmoreland County Rule of Civil Procedure W205.4 prohibits the electronic filing of a notice of appeal. **See** Rule

W205.4(a)(1)(A)(1). However, Pennsylvania Rule of Civil Procedure 205.4(e) states, in relevant part:

(2) No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary or the electronic filing system based upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.

Pa.R.C.P. 205.4(e)(2).

Here, Westmoreland County's requirement that notices of appeal may only be filed in-person or by mail is a "requirement of a local rule" such that a prothonotary may not refuse a filing based upon it when that filing is otherwise compliant with the Pennsylvania Rules of Civil Procedure. It is apparent to this Court that Snyder's initial filing on January 18, 2024, was sufficiently filed under Rule 902 (providing manner for taking appeal). Therefore, we consider Snyder's notice of appeal, filed and rejected on January 18, 2024, to have been properly and timely filed within 30 days from the relevant final order. ***See In re Primary Election of May 15, 2018***, 192 A.3d 313, 321 (Pa. Cmwlth. 2018) ("[W]e reiterate that [Pa.R.C.P.] 205.4(e)(2) makes clear that an electronically filed document that complies with the Pennsylvania Rules of Civil Procedure cannot be rejected based upon 'local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.'").

Having concluded that Snyder properly and timely filed her notice of appeal,³ we now turn to the issues she raises on appeal, which are as follows:

1. Whether the [c]ourt erred and abused [its] discretion by denying a motion for leave to file a nunc pro tunc statement of issues due to a purported lack of diligence when the basis of the motion was a directive from the Superior Court of Pennsylvania that was pending a Petition for [Allowance of] Appeal to the Pennsylvania Supreme Court and where the matter had not been remitted to the Court of Common Pleas by the Supreme Court[?]
2. Whether the court erred in denying leave to file a nunc pro tunc statement of issues because a challenge to void ab initio [o]rders entered in violation of a bankruptcy stay is not waivable due to purported technical defects and the directive to file a statement of issues and the resulting finding of waiver are void ab initio taken in violation of the bankruptcy stay?
3. Whether the court erred or abused its discretion, by contravening local practice and rules, allowing [Biros] to unilaterally present a motion to the [c]ourt filed by [Snyder] without consent of the parties where [Snyder] chose not to present the motion because the basis thereof was an [o]rder of the Superior Court and said [o]rder was pending an allocatur in the Supreme Court of Pennsylvania and the matter had not been remitted to the Court of Common Pleas by the Supreme Court?
4. Whether the [trial] court abused its discretion and the Superior Court should remand the case to a different judge considering, in addition to the Court of Common Pleas' allowance of [Biros] to unilaterally present without [Snyder's] consent as stated above: (a) [t]he judge accepted a non-docketed letter from [c]ounsel for [Biros] dated June 1, 2022, attaching nearly 90 pages of selected bankruptcy documents and advising the judge that documents were filed in the bankruptcy action that "appear to cast your actions [...] in a negative light"; (b) [a]ppears to have deliberately violated the bankruptcy stay by issuing [o]rders in the case almost immediately after [] Snyder served [c]hambers with a Notice of Bankruptcy; (c) [h]eld hearings after knowing about the bankruptcy stay and entertained a request by [Biros] to ignore the

³ Both Snyder and the trial court complied with Pa.R.A.P. 1925.

stay; (d) [m]ade implied threats to [] Snyder at the hearings in May 2022 including a directive to [ULI] to give a “message” to her implying that criminal actions could result; (e) [e]ntered the January 24, 2022, [o]rder pursuant to an ex parte contact between the judge’s law clerk and counsel for [Biros]; (f) [f]ailed to serve the January 24, 2022, [o]rder upon the parties appearing in the case despite Westmoreland County’s practice being that the [j]udge’s chambers, not the Prothonotary[,] serves the [o]rders; (f) [e]ntertained requests from counsel for [Biros] to make rulings to “help” with the bankruptcy; (g) [e]ntered directives, opinions, and required the attendance of hearings after acknowledging the existence of the bankruptcy of [ULI]; and (h) allowed [Biros] to utilize a shadow docket, where motions and applications were submitted to chambers, never docketed, heard at hearings without notice to the public and without the ability for the public to access copies of the motions?

Snyder’s Brief, at 7-8 (reordered for ease of review; unnecessary capitalization omitted).

Snyder first claims that the trial court erred in denying her motion for leave to file her Rule 1925(b) statement, nunc pro tunc, because the trial court lacked jurisdiction to rule on the motion where her petition for allowance of appeal was pending with the Pennsylvania Supreme Court. **See id.** at 7. Snyder further argues that the trial court erred in denying her motion for failing to diligently file it. **See id.** at 39. Snyder posits that: (1) she did act diligently, as she filed the motion for leave to file nunc pro tunc on November 1, 2023, only two days after the trial court docketed this Court’s order granting the application to dismiss her appeals; and (2) pursuant to Pa.R.A.P. 1701(a), the trial court did not have jurisdiction at the time to hear her motion because her petition for allowance of appeal was pending before the Pennsylvania Supreme Court. Snyder avers that the only reason she filed her motion with

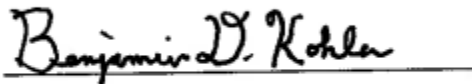
the trial court was because “it was unclear whether the [Pennsylvania] Supreme Court took jurisdiction over the petition.” **See id.** at 38-39. We agree.

Pennsylvania Rule of Appellate Procedure 1701(a) states that “after an appeal is taken or review of a quasijudicial order is sought, the trial court or other government unit may no longer proceed further in the matter.” Rule 1701(a) ceases to apply once the appellate court remands the record to the lower court. **See** Pa.R.A.P. 2591(a). A petition for allowance of appeal or an application for reargument from an order stays the remand of the record to the trial court. **See** Pa.R.A.P. 2572(b). Under Rule 2572(b), remand is stayed until the disposition of any post-decision applications, and the court possessed of the record shall remand 30 days after the disposition thereof. Therefore, the remand to the trial court on October 24, 2023, was premature, and Snyder’s petition for allowance of appeal should have stayed the remand of the record to the trial court until the Supreme Court ruled on that petition. **See Stanton v. Lackawanna Energy, Ltd.**, 915 A.2d 668, 672 (Pa. Super. 2007) (finding trial court lacked jurisdiction to enter order where appellant petitioned for appeal from Superior Court order and Pennsylvania Supreme Court had not ruled on petition); **see also Commonwealth v. Salley**, 957 A.2d 320, 325 (Pa. Super. 2008) (trial court order entered before record was remitted from appellate court was legal nullity). Therefore, because Snyder’s petition for allowance of appeal was still pending at the time the trial court entered the order denying Snyder’s motion for leave to file a Rule 1925(b)

statement nunc pro tunc, it lacked jurisdiction and, thus, that order constituted a legal nullity.⁴ ***See Stanton, supra; Salley, supra.***

Order vacated. Case remanded. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink that reads "Benjamin D. Kohler". The signature is written in a cursive style and is positioned above a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 08/01/2025

⁴ We also note that the trial court applied the incorrect standard in denying Snyder's motion for nunc pro tunc relief. Nunc pro tunc relief is "reserved for extraordinary circumstances[.]" ***Circle of Seasons Charter School v. Northwestern Lehigh School District***, 323 A.3d 656, 659 (Pa. 2024). However, here, the trial court incorrectly applied a "good cause" standard without mention of the extraordinary circumstances requirement. ***See*** Order, 12/19/23, at 1-2, citing ***McKeown v. Bailey***, 731 A.2d 628, 631 (Pa. Super. 1999) ("Nunc pro tunc relief requires good cause shown by the movant[.]"). Further, the trial court relied on a faulty premise in its denial. In support of its conclusion that Snyder "entirely failed to show good cause," the trial court provided only that Snyder filed her motion for leave to file nunc pro tunc after "over thirteen weeks elaps[ed] from the grant of leave from the Superior Court." ***See id.*** at 1 ("Snyder was granted leave . . . by the Superior Court on September 8, 2023 . . . [but Snyder] did not file . . . until November 1, 2023[.]"). However, the trial court's calculation of time was based upon when this Court ruled, not when the record was remanded. As discussed ***supra***, the trial court did not have jurisdiction until the Supreme Court ruled on Snyder's petition for allowance of appeal and remanded the record. Accordingly, because that had not occurred, and the trial court, therefore, did not have jurisdiction at the time, Snyder's motion was not untimely filed. Even so, Snyder filed her motion for leave within eight days of the record being remanded and within two days of the Westmoreland County prothonotary docketing this Court's order granting Biros' application to dismiss. On remand, if Snyder again moves for leave to file nunc pro tunc, the trial court is directed to apply the proper standard.