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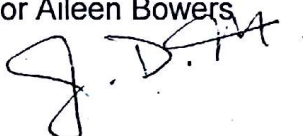
JUDGE'S CHAMBERS
COURT OF COMMON PLEAS OF BEAVER COUNTY
THIRTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
BEAVER, PENNSYLVANIA 15009

JOHN D. McBRIDE
PRESIDENT JUDGE

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MEMORANDUM

To: Mr. James A. Moore
Ms. Kimberly S. Moore
Magisterial District Judge Tim Finn
Assistant District Attorney Jordan Colalella, Esquire
Michael Carland, Esquire
The Honorable Richard Mancini
Garrett J. Harper, Esquire
Deputy District Court Administrator Aileen Bowers

From: The Honorable John D. McBride 
President Judge

Date: September 20, 2016

Re: Complaints for Indirect Criminal Contempt at No. 70353 of 2016

On September 16, 2016, my Law Clerk and personnel of the Court Administrator's Office received a complaint that there was a breakdown in the Court's system of delivering notice of scheduled hearings in PFA matters. In Court, on the record, I did inform the complaining party, James A. Moore, that an investigation into the matter would be conducted at my direction. That investigation is now completed.

The investigation reveals that an Emergency PFA Order was issued by MDJ Finn on September 7, 2016 at 11:58 a.m. The Order was sought by James Moore on behalf of his minor son against the minor's mother, Kimberly Moore. As is proper protocol, the Magisterial District Judge's office informed James Moore that the Emergency Order expired at the end of the next business day, i.e., September 8, 2016, and, therefore, it was necessary that James Moore appear at the Courthouse the next day before 9:30 a.m. to petition the Court for a Temporary PFA Order, which could then extend the PFA for ten (10) days until a hearing could be held to determine if a Final PFA Order should issue. James Moore did not go to the Courthouse at all on September 8, 2016, and, therefore, the Emergency PFA Order expired by its own terms at 4:30 p.m. on that day.

On September 8, 2016, two (2) Complaints for Indirect Criminal Contempt were filed by two (2) different Beaver Borough Police Officers alleging violations of the Emergency PFA Order, the first being filed at 12:00 noon and the second being filed at 12:30 p.m. on that date. Kimberly Moore was arraigned on those Complaints at 2:30 p.m. by MDJ Finn, who then faxed the Complaints to the Court Administrator's Office.

Protocol was followed when the staff of the Court Administrator's Office notified my office, and my office did issue Orders on September 9, 2016 scheduling hearings for September 15, 2016 at 8:30 a.m. Those Orders were filed in the Prothonotary's Office on the same day, i.e., September 9, 2016. As is also protocol, the Prothonotary's Office mailed out the notices of the hearings on Monday, September 12, 2016, by depositing them in the Courthouse mailroom. Mailroom pickup occurred, as is usual practice, at about 3:00 p.m. that day, and both notices were in the hands of the U.S. Postal Service by first-class mail as of September 12, 2016. On September 15, 2016, Kimberly Moore and her attorney appeared for the hearing after having received the mailed notices, and when neither the Petitioner nor the Prosecuting Officers had not yet appeared, the Complaints for Indirect Criminal Contempt were both dismissed at 10:29 a.m..

Although the Petitioner, James Moore, has asserted that he did not receive mailed notice before the September 15, 2016 scheduled hearings, and, although both Police Officers did provide the Court's investigator with statements and proof of delivery of their notices after 8:30 a.m. on September 15, 2016, the failure to make delivery was not caused by a breakdown in the Court's requirement to deliver notice. If anything, the fault lies in the failure of the Petitioner, himself, to seek a Temporary PFA Order before 4:30 p.m. on September 8, 2016 (which also would have been scheduled for hearing on September 15, 2016, with personal notice to him, or with the U.S. Postal Service, which took four (4) days to deliver four (4) notices a distance of two (2) blocks.

Because I find no breakdown in the Court's system, the two (2) Dismissal Orders of September 15, 2016 are confirmed and final.

JDM:mi