

Joshua D. Lock - #17092
Attorneys for Defendant
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4250 Crums Mill, Road, Ste. 301
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Harrisburg, Pennsylvania 17112
(717) 234-4161

COMMONWEALTH OF PENNSYLVANIA	:	IN THE COURT OF COMMON PLEAS
	:	MONTGOMERY COUNTY, PA
v.	:	
	:	NO. CP-46-CR-6239-2015
KATHLEEN G. KANE	:	CP-46-CR-8423-2015
Defendant	:	

ORDER

AND NOW this _____ day of _____, 2016, upon consideration of Defendant, Kathleen G. Kane's Motion to Enlarge Time to File Concise Statement of Matters Complained of on Appeal Pursuant to Pa.R.A.P. 1925(b)(2), it is hereby

ORDERED AND DECREED that said Motion is GRANTED. The deadline to file the Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925(b) shall be extended for a period of 21 days, thereby making said Statement due on or before January 6, 2017.

BY THE COURT:

Wendy Demchick-Alloy, Judge

Distribution:

Joshua D. Lock, Esquire (Goldberg Katzman, PC, 4250 Crums Mill Road, Ste. 301, P.O. Box 6991, Harrisburg, PA 17112)
Kevin Steele, District Attorney
Clerk of Court

CLERK OF COURTS
OFFICE
MONTGOMERY COUNTY
PENNSYLVANIA

2016 DEC -9 PM 12:00

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**DEFENDANT, KATHLEEN G. KANE'S MOTION TO ENLARGE TIME TO FILE
CONCISE STATEMENT OF MATTERS COMPLAINED OF ON APPEAL
PURSUANT TO Pa.R.A.P. 1925(b)(2)**

TO THE HONORABLE WENDY DEMCHICK-ALLOY, JUDGE OF SAID COURT:

AND NOW, comes Defendant, Kathleen G. Kane, by and through her attorneys, Goldberg Katzman, PC, and Joshua D. Lock, Esquire, and files the following Motion to Enlarge Time to File Concise Statement of Matters Complained of on Appeal Pursuant to Pa.R.A.P. 1925(b)(2), and, in support thereof, avers that:

1. On November 22, 2016, Defendant Kathleen G. Kane filed her Notice of Appeal on both dockets set forth above, and undersigned counsel entered his appearance.
2. On October 24, 2016, prior to entering my appearance, my assistant travelled to the Clerk of Court's Office of Montgomery County to copy specific documents so that I would be able to begin my review of this case.
3. On November 22, 2016, this Honorable Court issued its Order directing Defendant to file her Concise Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925(b) on or before December 16, 2016.
4. Prior to November 22, 2016, undersigned counsel first contacted trial counsel in order to request Ms. Kane's case file as soon as practical in order to be prepared to represent her on

appeal. A true and correct copy of the text message sent on October 27, 2016, at 8:58 a.m. by undersigned counsel to trial counsel requesting, among other things, Ms. Kane's case file, is attached hereto and incorporated herein by reference as Exhibit "A".

5. On November 4, 2016, undersigned counsel again requested Ms. Kane's case file from trial counsel by written correspondence. (A true and correct copy of correspondence dated November 4, 2016 is attached hereto and incorporated herein by reference as Exhibit "B").

6. Undersigned counsel did not represent Ms. Kane prior to or at trial in this case.

7. Following the within correspondence described above, trial counsel has provided portions of the case file at issue herein through two, separate electronic productions. However, undersigned counsel has not yet been provided with certain portions of the case file. A written request was made for the materials which have not yet been provided. (A true and correct copy of correspondence dated December 1, 2016 is attached hereto and incorporated herein as Exhibit "C").

8. Without having the benefit of representing Ms. Kane previously, undersigned counsel is diligently attempting to assess the issues to be raised on appeal, but as of the filing of the within Motion has not yet been able to completely review the voluminous documents provided, nor review of the entire transcript.

9. Undersigned counsel makes the within request of this Court to enlarge the time within which to file a Statement of Matters Complained of on Appeal in good faith, and without seeking to unnecessarily delay the appeal from proceeding forward.

10. No prior requests to extend the time to file a Concise Statement of Matters Complained of on Appeal have been made in this matter.

11. Rule 1925(b)(2) states that "a judge may, among other things, enlarge the time period to file the Statement upon application of the Appellant and for good cause shown. . . ." Pa.R.A.P. 1925(b)(2).

12. In light of all of the foregoing, undersigned counsel is unable to comply with the current deadline of December 16, 2016 as the current deadline does not afford undersigned counsel sufficient time to sufficiently and effectively investigate the matters to be raised on appeal, and therefore if the deadline is not extended there is the risk that issues will not be raised, and therefore waived.


13. By the within Motion, Defendant hereby seeks leave of Court to enlarge the deadline to file her Statement for an additional period of 21 days, thereby making the Statement due on or before January 6, 2017.

WHEREFORE, Defendant, Kathleen G. Kane respectfully requests this Honorable Court grant the within Motion to enlarge the time within which to file her statement of Matters complained of on Appeal pursuant to Pa.R.A.P. 1925(b) for an additional period of 21 days, thereby making said Statement due on or before January 6, 2017.

Respectfully submitted,

GOLDBERG KATZMAN, P.C.

By _____



Joshua D. Lock, Esquire
4250 Crums Mill Road, Ste. 301
Post Office Box 6991
Harrisburg, PA 17112
Attorney ID #17092
Attorneys for Kathleen G. Kane

Date: 12-6-16

EXHIBIT A

Text Message
Thu, Oct 27, 8:58 AM

Gerry,

Congratulations on the excellent result achieved at Kathleen Kane's sentencing hearing on Monday.

Thank you for taking the time to speak with me on Sunday and Monday regarding possible appellate issues for Kathleen. To enable me to pursue an appeal on her behalf, it will be necessary for me to review her entire file. I'd be grateful if you can get me her file as quickly as possible. Either paper or

sentencing hearing on Monday.

Thank you for taking the time to speak with me on Sunday and Monday regarding possible appellate issues for Kathleen. To enable me to pursue an appeal on her behalf, it will be necessary for me to review her entire file. I'd be grateful if you can get me her file as quickly as possible. Either paper or electronic format will be fine. If there are costs associated with the transfer of the file, let me know and I'll be pleased to take care of them.

Thank you

EXHIBIT B

GoldbergKatzman

A T T O R N E Y S a t L A W

November 4, 2016

Gerald Shargel, Esquire
WINSTON & STRAWN, LLP
200 Park Avenue
New York, NY 10166-4193

Re: Commonwealth v. Kathleen G. Kane
Docket No(s). CP-46-CR-6239-2015
CP-46-CR-8423-2015

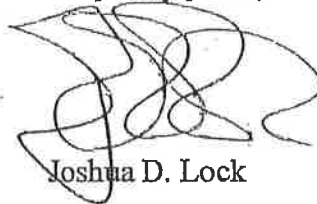
Dear Mr. Shargel:

As you are aware, Kathleen G. Kane has retained me to represent her for her appeal. As trial counsel for Ms. Kane, it is my understanding that you maintain her case file at your law office. Pursuant to the Pennsylvania Rules of Criminal Procedure, a Notice of Appeal must be filed within 30 days from the date of sentencing. Thereafter, the Trial Court will issue a rule upon me to file a Concise Statement of Matters Complained on Appeal pursuant to Pa.R.A.P. 1925(b) within 20 days.

As I am sure you understand, in order to investigate her appellate issues and be prepared to timely file the Concise Statement, it will be necessary for me to review the case file in your possession concerning our mutual client. I trust that you will comply with my request to promptly transfer the case file to me so that I will be able to meet the strict time deadlines described above. If you anticipate any delay in compliance with this request, please advise at once.

In advance, thank you for your cooperation in this regard.

Very truly yours,



Joshua D. Lock

JDL:kjs

EXHIBIT C

GoldbergKatzman

ATTORNEYS at LAW

December 1, 2016

Gerald Shargel, Esquire
WINSTON & STRAWN, LLP
200 Park Avenue
New York, NY 10166-4193

Re: Commonwealth v. Kathleen G. Kane
Docket No(s). CP-46-CR-6239-2015
CP-46-CR-8423-2015

Dear Mr. Shargel:


Please allow the within correspondence to memorialize my receipt of Kathleen G. Kane's case materials which were provided to me by your law office. The materials received were sent via two, separate electronic productions. However, based upon my continuing review of the documents received, I write to you to request materials which were not provided.

In order to represent Ms. Kane it is material and necessary that I be provided with your investigative file and all of your case notes. None of these materials have been provided to me by you, or your office, to date. Specifically, my request includes but is not limited to the following: notes, memos or other writings regarding the identification of trial witnesses for the defense; interviews conducted with trial witnesses for the defense; correspondence, including but not limited to correspondence with the Attorney General's Office, law enforcement or trial witnesses for the defense; case notes made in the preparation of trial; and case notes made during trial.

I believe it is necessary for me to receive and review the materials requested above in order to effectively represent our mutual client.

In advance, thank you for your anticipated cooperation in this regard.

Very truly yours,


Joshua D. Lock

JDL:kjs

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person(s) and in the manner indicated below. The manner of service satisfies the requirements of the Pa.R.Crim.P. 575:

Service via inter-office mail:

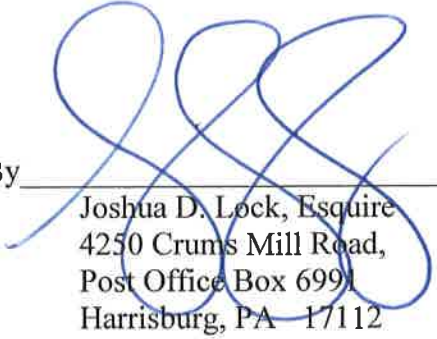
The Honorable Wendy Demchick-Alloy
Court of Common Pleas Montgomery County
Montgomery County Courthouse
Swede & Airy Streets
P.O. Box 311
Norristown, PA 19404-0311

Kevin Steele, District Attorney
Office of the District Attorney
Montgomery County Courthouse
Swede & Airy Streets
P.O. Box 311
Norristown, PA 19404-0311

2016 DEC -9 PM 12:01
CLERK OF COURTS
OFFICE
MONTGOMERY COUNTY
PENNSA

GOLDBERG KATZMAN, P.C.

By _____



Joshua D. Lock, Esquire
4250 Crums Mill Road,
Post Office Box 699
Harrisburg, PA 17112
Attorney ID #17092
Attorneys for Kathleen G. Kane

Date: 12-6-16