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Pursuant to 20 Pa.C.S.A. § 5511, *et seq.*” In the petition, the Hospital averred that Cobb’s prognosis was poor and he was in need of potentially prolonged ventilation. The Hospital asked the orphans’ court to appoint an **emergency guardian** to provide authority for Cobb’s “medical providers to **discontinue** mechanical ventilation and life support measures upon the finding of medical futility of Mr. Cobb’s condition, and to provide palliative medical care to Mr. Cobb under the circumstances.” Petition, 5/10/2011, at ¶ 20.

On May 11, 2011, the orphans’ court appointed counsel on Cobb’s behalf and scheduled an emergency hearing on this matter for May 12, 2011 at 4:00 p.m. In an order dated May 13, 2011, and filed May 16, 2011, the orphans’ court denied the petition for appointment of an emergency guardian with prejudice. Furthermore, the orphans’ court granted the motion for counsel fees, filed by Cobb’s counsel, in the amount of \$1,200. Cobb died on May 15, 2011.

On May 23, 2011, the Hospital filed a motion for reconsideration, specifically asking the orphans’ court to reconsider the portion of the order for counsel fees. The exceptions were deemed denied, as evidenced by a “Notice of Deemed Denial of Exceptions” filed by the Clerk of Courts on August 22, 2012.¹ This appeal followed.

¹ Orphans’ Court Rule 7.1 provides, in relevant part, as follows:

On October 2, 2012, the orphans' court ordered the Hospital to file a concise statement of matters complained of on appeal within twenty-one days pursuant to Pa.R.A.P. 1925. In a document dated October 17, 2012, the Hospital sent a copy of its concise statement by certified mail to Orphans' Court Judge Edward Reibman, and also sent copies by first-class mail to Janet T. Woffindin, Esq., Orphans' Court Counsel and Director of

(f) **Time Limits for Decision on Exceptions.** The Orphans' Court shall decide exceptions including supplemental exceptions and cross exceptions within one hundred and twenty (120) days of the filing of the initial exceptions. If the Orphans' Court fails to decide the exceptions within one hundred and twenty (120) days, the exceptions shall be deemed denied by operation of law on the one hundred and twenty first (121st) day and the clerk is directed to enter the deemed denial on the docket as of that date. The appeal period shall begin to run as of the one hundred and twenty (121st) day.

Pa.R.O.C. 7.1(f). A comment to the rule provides that "[t]he 30 day appeal period pursuant to Pa.R.A.P. 903 from such final orders begins to run from the date of entry of an order disposing of exceptions or on the date of a deemed denial pursuant to Subdivision (f) of this rule." Under these rules, had the deemed denial been entered on the docket and notice given to the parties, the Hospital would have had 30 days from the 121st day after it filed its exceptions to file a timely notice of appeal. Under those circumstances, the appeal would have been required to have been filed no later than October 21, 2011. This appeal was filed almost a year later on September 17, 2012.

Another comment to Orphans' Court Rule 7.1 provides that "[p]arties frequently overlook the requirement that the order from which a party seeks to appeal and notice of that order from the prothonotary be entered on the docket before an appeal can be taken....[and] [t]his requirement applies to Orphans' Court orders." **See *Estate of Keefauver***, 518 A.2d 1263 (Pa. Super. 1986). Thus, because the Clerk of Courts did not enter the order on the docket and provide notice of the order until August 22, 2012, this appeal, filed within 30 days from that date on September 17, 2012, is timely.

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Operations and to Steve A. Litz, Esq., court-appointed attorney for Cobb. The orphans' court filed its opinion in this matter on December 7, 2012.

Before we reach the merits of the appeal, we must consider whether there are any issues properly before us. Specifically, the orphans' court urges us to find that all issues have been waived due to the Hospital's non-compliance with Pa.R.A.P. 1925. **See** Orphans' Court Opinion, 12/7/2012, at fn. 3. We are constrained to agree.

On December 12, 2012, the Hospital filed an application for correction of record with this Court. In its motion, the Hospital recognized that its 1925(b) statement was not filed of record in the Orphans' Court until December 7, 2012, well beyond the twenty-one day timeframe. Because the concise statement was filed late, the Hospital asked the this Court consider it as part of the certified record. This Court permitted the correction and our order provided that the Hospital's concise statement was deemed to have been filed on December 7, 2012.

There is no question that the Hospital failed to comply with the technical requirements of the rule where it failed to file the concise statement in the Orphans' Court within twenty-one day timeframe provided for by both Rule 1925 and the order of court. The consequences of this failure are harsh, as our Supreme Court set forth in **Commonwealth v. Hill**, 16 A.3d 484 (Pa. 2011).

Our jurisprudence is clear and well-settled, and firmly establishes that: Rule 1925(b) sets out a simple bright-line rule,

which obligates an appellant to file and serve a Rule 1925(b) statement, when so ordered; any issues not raised in a Rule 1925(b) statement will be deemed waived; the courts lack the authority to countenance deviations from the Rule's terms; the Rule's provisions are not subject to *ad hoc* exceptions or selective enforcement; appellants and their counsel are responsible for complying with the Rule's requirements; Rule 1925 violations may be raised by the appellate court *sua sponte*, and the Rule applies notwithstanding an appellee's request not to enforce it; and, if Rule 1925 is not clear as to what is required of an appellant, on-the-record actions taken by the appellant aimed at compliance may satisfy the Rule. We yet again repeat the principle first stated in [***Commonwealth v. Lord***, 719 A.2d 306 (Pa. 1998)] that must be applied here: [I]n order to preserve their claims for appellate review, [a]ppellants must comply whenever the trial court orders them to file a Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925. Any issues not raised in a Pa.R.A.P. 1925(b) statement will be deemed waived.

Id. at 494. (internal citations and quotation omitted).

Moreover, we have previously held that even where a trial judge is served with a copy of a concise statement, but an appellant neglects to file it, and where there is no prejudice to any party, we are still constrained to consider all issues waived. ***See Bryant v. Glazier Supermarkets, Inc.***, 823 A.2d 154, 155 (Pa. Super. 2003); ***Commonwealth v. Schofield***, 888 A.2d 771 (Pa. 2005).

Accordingly, we follow the mandate of ***Hill, supra***, and conclude the Hospital has waived all issues in its appeal for the failure to file a timely concise statement.

Order affirmed.

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Judgment Entered.

A handwritten signature in cursive script, appearing to read "Karen Gambett", written over a horizontal line.

Prothonotary

Date: 7/31/2013