

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Commonwealth of Pennsylvania	:	
	:	
v.	:	No. 226 C.D. 2011
	:	Submitted: July 8, 2011
Richard Petlikowski,	:	
Appellant	:	

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE ROBERT SIMPSON, Judge
HONORABLE JAMES R. KELLEY, Senior Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION
BY JUDGE SIMPSON**

FILED: August 24, 2011

Richard Petlikowski (Landowner) appeals the judgment of sentence entered by the Court of Common Pleas of Delaware County (trial court) after finding that he violated ordinances of Aston Township (Township). Landowner generally contends¹ that during his *de novo* appeal to the trial court from his earlier convictions before a magisterial district judge, the Township failed to offer competent evidence that his building permit expired and that exposed Tyvek covering did not comply with protective covering provisions of the property maintenance code. We affirm on the trial court's decision.

Landowner owns residential property in the Township which he has been renovating for at least 10 years. On March 26, 2008, he obtained another

¹ Landowner lists two questions in the Statement of the Questions Involved section of his appellate brief. Unfortunately, he identifies six issues in the Summary of Argument section of his appellate brief, and he addresses four similar if not identical issues in the body of the Argument section of his appellate brief.

building permit to install vinyl siding, soffit and trim, apply stucco and install two new windows. The permit reflected an expiration date of September 27, 2008. Despite inquiries by Landowner regarding extension of the permit and repeated written communication from Township personnel regarding the need to do something about the permit, Landowner did not complete the work and did not extend the permit.

Finally, on April 7, 2010, two citations were issued to Landowner. One citation identified the violation as “Violation UCC [Uniform Construction Code²]-expired permit. Permit expired ’08. No work being done within 180 days.” Reproduced Record (R.R.) at 56a; see Township Ex. 5, Supplemental Reproduced Record (S.R.R.) at AA29. The citation also specified Section 403.63(g), and it indicated “UCC-adopted 1/31/09 Pennsylvania Uniform Construction Code.” S.R.R. at AA29.

The second citation stated, “Violation Property Maintenance Code-Exterior Structure Protective Treatment,” and it referenced Section 304.2.³ R.R. at 57a; see Township Ex. 4, S.R.R. at AA27-28. The citation also stated, “International Property Maintenance Code Passed 4-16-08.” S.R.R. at AA27.

² The Uniform Construction Code refers to the code established by Section 301 of the statute known as the Pennsylvania Construction Code Act (CCA), Act of November 10, 1999, P.L. 491, as amended, 35 P.S. §7210.301. See Section 103 of the CCA, 35 P.S. §7210.103 (definitions). By Ordinance Number 817, adopted June 16, 2004, the Township first adopted the Uniform Construction Code and associated regulations “as amended from time to time” as the municipal building code. S.R.R. at AA38-39. The CCA was recently amended by the Act of April 25, 2011, P.L. 1; the recent amendments do not impact our decision here.

³ By Ordinance Number 858, adopted April 16, 2008, the Township adopted the 2006 edition of the International Property Maintenance Code. S.R.R. at AA43-44.

This citation was based on a view of the property from the street, documented by photographs, which showed exposed Tyvek paper and other materials in the numerous areas of Landowner's residential building which were not covered by siding. R.R. at 57a-59a; see S.R.R. at AA14-26, AA34-35.

Landowner appealed the citations, but he was found guilty and fined \$100.00 after a magisterial district judge hearing. He appealed to the trial court which, after another hearing, also found him guilty. His further appeal to the Superior Court was transferred to this Court for consideration.⁴

In the Summary of Argument portion of his appellate brief, Landowner raises six assignments of error: 1) the trial court failed to require proof that the Township's lawyer had been authorized by the district attorney to prosecute Landowner; 2) the Township failed to prove the official issuing the citations was qualified to do so; 3) Landowner was denied due process because the citations failed to inform him of the Township number for the Ordinances he was accused of violating; 4) the citations were invalid because the person who issued them was not qualified, was not certified, and was not eligible for delegation of the duty; 5) the Township failed to prove his permit expired because there was no competent evidence that work was commenced within 180 days or that more than 180 days lapsed during the construction; and, 6) the Township failed to prove Landowner violated the protective covering provision because there was no

⁴ Our review of a trial court's determination on appeal from a summary conviction is limited to whether there was an error of law or whether competent evidence supports the trial court's findings. Commonwealth v. Hall, 692 A.2d 283 (Pa. Cmwlth. 1997).

competent evidence that Tyvek violates the provision or that the exposed protective covering allowed deterioration.

Landowner's first assignment of error is waived. The entire argument is composed of three sentences in a footnote to the heading "**ARGUMENT.**" See Pa. AFL-CIO by George v. Commonwealth, 563 Pa. 108, 757 A.2d 917 (2000) (party waived claims that it made in passing in a footnote). Moreover, the transcript of the hearing demonstrates this issue lacks merit. R.R. at 5a.

After careful review of the transcript, exhibits and argument, we are satisfied that there is no merit in any of the remaining issues. All these issues were fully addressed in the thoughtful and thorough opinion of Senior Judge George Koudelis. We cannot improve on his common-sense explanations. Accordingly, we affirm on the basis of that opinion.

ROBERT SIMPSON, Judge

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ORDER

AND NOW, this 24th day of August, 2011, the Order of the Court of Common Pleas of Delaware County is **AFFIRMED** upon the opinion of the Honorable George Koudelis in Commonwealth of Pennsylvania (Aston Township v. Richard Petlikowski) (No. SA 734-2010, filed December 29, 2010) (C.P. Delaware).

ROBERT SIMPSON, Judge