IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Richard Frame,	:	
	:	
Appellant	:	
	:	
v.	:	No. 1921 C.D. 2009
	:	
Menellen Township	:	Submitted: May 14, 2010

OPINION NOT REPORTED

MEMORANDUM OPINION
PER CURIAM **FILED: August 5, 2010**

Richard Frame appeals, pro se, from the August 18, 2009 order of the Court of Common Pleas of Fayette County (trial court), which, after holding a *de novo* appeal hearing, found Mr. Frame guilty of two counts of failure to cut his grass and weeds in violation of Section 302.4 of Menallen[1] Township's (Township) Ordinance 177 and two counts of allowing an unsafe structure on his property in violation of Section 303.1 of the Township's Ordinance 189.[2] Mr. Frame argues that the trial court's order should be reversed because: (1) the citations were invalid because John Newcomer, the Township's Code Enforcement Officer (Officer Newcomer), did not

[1] Although referred to in the caption as Menellen Township, the municipality involved here is actually Menallen Township. Moreover, although the Township is listed as the appellee, it is the Commonwealth of Pennsylvania that prosecuted this matter, through the Fayette County District Attorney's office, and it is the District Attorney who has filed a brief in support of the trial court's order. Accordingly, we shall refer to the Commonwealth as the appellee in this matter.

[2] Ordinance 177 and Ordinance 189 represent the Township's codification of a Building Officials and Code Administration Code.

take his oath of office until after the issuance of the citations; (2) the trial court erred in not ruling on Mr. Frame's constitutional challenge to the citations; (3) the citations lacked specificity, thereby violating Mr. Frame's right to know the nature of the accusations against him; and (4) the trial court failed to rule on Mr. Frame's pretrial motions. For the following reasons, we affirm the trial court's order.

Mr. Frame owns property at 1198 New Salem Road in Newboro, Pennsylvania (Property). (Hr'g Tr. at 7, August 18, 2009.) Officer Newcomer visited the Property on several occasions in December 2008 to enforce the Township's ordinances, including Ordinances 177 and 189. (Hr'g Tr. at 6, 22.) On December 16, 2008, Officer Newcomer cited Mr. Frame for: (1) violating Section 302.4 of Ordinance 177 for having "[h]igh weed[s]," further described as "[c]ited same charge from 6-13-08[.] Weeds and grass [have] never been cut this season"; and (2) violating Section 303.1 of Ordinance 189 by having an "[u]nsanitary-unsafe structure" on the Property, further described as a "cited same charge from 6-12-08. House trailer frame with unsafe deck." (Citation Nos. P6916633-3 and P6916634-4, December 16, 2008). Officer Newcomer issued two more citations on December 30, 2008, again indicating violations of: Section 302.4 of Ordinance 177 for "[h]igh weeds," stating that "[a]rea never touched the entire season"; and Section 303.1 of Ordinance 189 for "[u]nsanitary-unsafe structure" by having a "house trailer frame with unsafe deck in place." (Citation Nos. P6916635-5 and P6916636-6, December 30, 2008).

Mr. Frame appealed these citations to a Magisterial District Judge (MDJ), who, after a summary trial, found Mr. Frame guilty of all charges on March 17, 2009, and fined him $800.00 plus costs. (Summary Appeal Docket (Docket) at 3, 10.) Mr.

Frame appealed his summary convictions to the trial court, which held a *de novo* hearing on August 18, 2009. At the hearing, the Township offered the testimony of Officer Newcomer and photographs of the Property, and Mr. Frame testified on his own behalf and sought to introduce the testimony of Hagan Smith. Prior to the beginning of testimony, Mr. Frame requested the trial court to consolidate the approximately sixty-three citations issued against him. (Hr'g Tr. at 4-5.) The trial court denied the motion, pointing out that the only citations presently before it were those issued on December 16 and 30, 2008. (Hr'g Tr. at 4-5.)

Officer Newcomer testified regarding his observations of the Property and described how Mr. Frame's failure to cut his grass resulted in the high grass and weeds that violated Section 302.4 of Ordinance 177. (Hr'g Tr. at 6.) Officer Newcomer explained that the house trailer frame and deck structure violated Section 303.1 of Ordinance 189 because its floor had rotted through, there was the danger that someone could fall through the floor, and rats were present on the Property. (Hr'g Tr. at 11-12.) He further noted that there was no house trailer on the Property, only the house trailer frame. (Hr'g Tr. at 12.) Officer Newcomer indicated that the photographs of the Property taken on August 14, 2009, and introduced as evidence at the hearing, accurately depicted the appearance of the Property in December 2008 and that any change was the result of additional deterioration. (Hr'g Tr. at 8-10.) On cross-examination, Officer Newcomer acknowledged that he took his oath of office on August 11, 2009, after he issued the citations. (Hr'g Tr. at 16.)

Mr. Frame sought to introduce the testimony of Mr. Smith, at which time Nancy Vernon, the Fayette County District Attorney, asked for an offer of proof as to

what Mr. Smith was going to testify about before the trial court. (Hr'g Tr. at 23.) The following exchange occurred:

> Mr. Frame: Sir, do you know anything about the Constitutional laws?
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> Mr. Smith: I know . . .
>
> Ms. Vernon: I am going to object again.
>
> Trial Court: Where are we going with this, Mr. Frame?
>
> Mr. Frame: Sir, this has to do with the Constitution. [Officer Newcomer] doesn't have an oath of office. I would like to interject some more information about what . . .
>
> Trial Court: It is admitted that he doesn't have an oath of office.
>
> Mr. Frame: I understand that.
>
> Trial Court: Until . . .
>
> Mr. Frame: But I would like to go on with what is necessary to counteract what [Ms. Vernon] just said.[3]
>
> Ms. Vernon: Well we would like an offer of proof.
>
> Trial Court: Who is this gentleman and what's he going to testify to?
>
> Mr. Frame: This gentleman is very affluent [sic] in the Constitutions, both the state and federal government, and he knows the law.
>
> Trial Court: Well what is he going to testify to?
>
> Mr. Frame: He is going to testify to what she just read.

[3] Prior to Mr. Frame's attempt to present Mr. Smith as a witness, Ms. Vernon indicated to the trial court that the fact that Officer Newcomer did not take his oath of office until after the citations were issued did not affect the validity of those citations pursuant to the de facto doctrine, which will be discussed in more detail herein. (Hr'g Tr. at 20-21.)

Trial Court: He is going testify that that's not the law?

Mr. Frame: No, Sir. He is going to testify what that really is and what it needs to be.

Ms. Vernon: Your Honor, we would make a Motion [] in Limine, to restrict this witness from testifying. The Court is the best determiner of what the law [is] as it applies to the facts.

Trial Court: If you believe the law is unconstitutional, Mr. Frame, then you should attack it in the appropriate forum. This is not the forum and we are not going to hear an attack on the Constitution, on Constitutional issues in this Courtroom, on this occasion. Sir, you may step down. You are not permitted to testify. You may call your next witness.

Mr. Frame: Yes, Sir.

(Hr'g Tr. at 23-24.) Thus, Mr. Smith was not permitted to testify in support of Mr. Frame's appeal.

Mr. Frame testified that he believed that he had worked out his differences with the Township after paying previous fines associated with the condition of the Property, but he acknowledged that the Township could have cited and fined him for each day the Property remained in violation of the Township's ordinances. (Hr'g Tr. at 26, 31.) Mr. Frame initially asserted that he did not receive a hearing for two of the citations, but he admitted that he attended a hearing before the MDJ on March 17, 2009, at which testimony was taken and he was found guilty of all four of the citations. (Hr'g Tr. at 28-31.) Mr. Frame conceded that the "high weed" citations explained that the violation at issue was that the weeds and grass on the Property were not cut. (Hr'g Tr. at 32.) Mr. Frame asserted that the "unsanitary-unsafe" citations were vague, but he subsequently agreed that that citation would inform a

person that "the complaint is, the house, the trailer frame and the unsafe deck." (Hr'g Tr. at 33-34.)

After considering the evidence presented, the trial court found Mr. Frame guilty of violating Section 302.4 of Ordinance 177 and Section 303.1 of Ordinance 189 on December 16, 2008 and December 30, 2008 and sentenced Mr. Frame to pay the fines and costs imposed by the MDJ and the costs of the summary appeal. (Hr'g Tr. at 36; Trial Ct. Order, August 18, 2009.) Mr. Frame filed a notice of appeal with this Court and, at the trial court's direction, he filed a Concise Statement of Matters Complained of on Appeal pursuant to Pa. R.A.P. 1925(b) (Statement), asserting the following allegations of error.

> 1) Does the de facto . . . doctrine trump objections made through the Second Class Township Code, Article V, Section 501 as well as the Pennsylvania Constitution, Article VI, Section 3, by a person aggrieved by the acts of a township office unempowered by an oath of office?
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> 2) Does the trial court mistake its authority to adjudicate constitutional issues, as manifested by its statement: "If you believe the law is unconstitutional Mr. Frame, then you should attack it in the appropriate forum. This is not the forum and we are not going to hear an attack on the Constitution, or Constitutional issues in this Courtroom, on this occasion."?
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> 3) Were the citations infirm as a matter of law for failing to accord the defendant the nature and cause of the accusation(s) per Com[monwealth] v. Borriello[,] 696 A.2d 1215 (Pa. Cmwlth 1997[),] U.S. Const. Art. 6 and Pa. Const. Article 1, Sec. 9?
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> 4) Did the trial court improperly decline to adjudicate the pretrial motions in light of Com[monwealth] v. Breslin[,] 732 A.2d 629 (Pa. Super. 1999), which contained various challenges?

(Statement, October 27, 2009.) The trial court issued an opinion on November 13, 2009 in support of its August 18, 2009 order finding Mr. Frame guilty.

The trial court concluded that the first issue, whether the de facto doctrine applied to this matter, was waived pursuant to Commonwealth v. Woods, 909 A.2d 372 (Pa. Super. 2006) and Lineberger v. Wyeth, 894 A.2d 141 (Pa. Super. 2006), because Mr. Frame's failure to provide the trial court "with a sufficiently detailed first issue in his . . . Statement fatally hamper[ed the trial court's] ability to prepare a legal analysis which is pertinent to the issues." (Trial Ct. Op. at 5.) With regard to Mr. Frame's allegation that the trial court mistook its authority to adjudicate constitutional issues, the trial court concluded that Mr. Frame took its statement out of context and that the quoted language was in response to Mr. Frame's attempt to introduce Mr. Smith's testimony regarding "what [the de facto doctrine] is and what it needs to be" (Trial Ct. Op. at 6 (quoting Hr'g Tr. at 24).) The trial court indicated that its statement was part of its ruling granting the Commonwealth's Motion in Limine with respect to Mr. Smith's testimony because the trial court "is the best determiner of the law as it applies to the facts." (Trial Ct. Op. at 6 (quoting Hr'g Tr. at 24).) The trial court concluded that Mr. Frame's third allegation of error was without merit in light of Mr. Frame's admissions that: (1) "he had sufficient notice as to the specific facts alleged that constituted a violation of the ordinances"; (2) "the [high grass] citation adequately describe[d] his violation for failing to cut the weeds and grass"; and (3) "the [unsafe structure] citation adequately describe[d] his violation for possessing an unsafe structure, that structure being a house trailer frame." (Trial Ct. Op. at 6-7 (quoting Hr'g Tr. at 32, 34).) Finally, the trial court held that the only pretrial motion filed by Mr. Frame was his request to consolidate the sixty-three citations that were pending against him and that it did, in fact, adjudicate Mr. Frame's motion by denying it on the grounds that only the December

16, 2008 and December 30, 2008 citations were assigned to that particular judge. (Trial Ct. Op. at 7 (citing Hr'g Tr. at 4-5).)

On appeal,[4] Mr. Frame asserts the same four issues that he raised in his Statement. We begin with the first issue of whether the de facto doctrine applies to this case. Although the trial court concluded that Mr. Frame presented the issue in a fashion too vague for it to consider, we will address it because both parties include that issue in their briefs. Mr. Frame argues that the de facto doctrine, relied upon by the Commonwealth to support the validity of the citations issued by Officer Newcomer, does not apply here because, "[w]hile the de facto doctrine may validate the actions of unchallenged officials, [Mr. Frame] has consistently targeted [Officer Newcomer's] lack of an oath of office." (Mr. Frame's Br. at unnumbered page between 7 and 8.) We disagree.

It is well settled that, "[u]nder the de facto doctrine, the official acts of one who acts under the color of title to an office are to be given the same effect as those of a de jure official." Ucheomumu v. County of Allegheny, 729 A.2d 132, 135 (Pa. Cmwlth. 1999) (citing State Dental Council and Examining Board v. Pollock, 457 Pa. 264, 268, 318 A.2d 910, 913 (1974)). "The acts of de facto officials that are performed under the color of title *are valid with regard to the public*, even if their election or appointment was irregular or illegal." Ucheomumu, 729 A.2d at 135 (emphasis added). In Pollock, our Supreme Court stated:

[4] This Court's review of a "trial court's determination on appeal from a summary conviction is limited to whether there has been an error of law or whether competent evidence supports the trial court's findings." Commonwealth v. Hall, 692 A.2d 283, 284 n.2 (Pa. Cmwlth. 1997).

> "From an early date the appellate courts of this Commonwealth have held steadily to the rule that 'the acts of public officers De facto, coming in by color of title, (whether or not entitled De jure), are good so far as respects the public, but void when for their own benefit'; and it is equally well settled that attacks upon the right of such [officers] to serve, must be made by the Commonwealth in a direct proceeding for that purpose, **and cannot be made collaterally**": Com[monwealth] ex rel. v. Snyder, 294 Pa. 555, 559, 144 A. 748[, 749 (1929)]. Palermo v. Pittsburgh, 339 Pa. 173, 177, 13 A.2d 24, 26 (1940).
>
> The doctrine springs from an understandable fear of chaos that would result from multiple and repetitious suits challenging every action taken by every official whose claim to office could be open to question. "If the question [of right to office] may be raised by one private suitor it may be raised by all, and the administration of justice would under such circumstances prove a failure." Coyle v. Commonwealth, 104 Pa. 117, 130 (1883). The *De facto* doctrine seeks to protect the public by ensuring the orderly functioning of the government despite technical defects in title to office.

Pollock, 457 Pa. at 268, 318 A.2d at 913 (italics in original) (bold emphasis added).[5] Thus, our courts have applied the de facto doctrine to uphold the actions of a wide variety of officials. Pollock (the State Dental Council and Examining Board); Borough of Pleasant Hills v. Jefferson Township, 359 Pa. 509, 59 A.2d 697 (1940) (burgess and councilmen); Palermo v. City of Pittsburgh, 339 Pa. 173, 13 A.2d 24 (1940) (director of a city department of public safety); Warner v. Coatesville Borough, 231 Pa. 141, 80 A. 576 (1911) (councilmen); Coyle (criminal trial judge); Quest Land Development Group, LLC v. Township of Lower Heidelberg, 971 A.2d

[5] We note that the only way to challenge the authority of a de facto official is through a *quo warranto* action by the Commonwealth. Pollock, 457 Pa. at 268, 318 A.2d at 913. A "[*q*]*uo warranto* action, like an injunction, is addressed to preventing a continued exercise of authority unlawfully asserted rather than to correct what has already been done under that authority." Id. The de facto doctrine is unlike a *quo warranto* action in that the de facto doctrine essentially regularizes what has already been done by the de facto official so as to ensure the orderly function of the government. Id.; Ucheomumu, 729 A.2d at 135.

540 (Pa. Cmwlth. 2009) (a zoning hearing board); Ucheomumu (a county apportionment committee); Chichester School District v. Chichester Education Association, 750 A.2d 400 (Pa. Cmwlth. 2000) (school board members); Finucane v. Pennsylvania Milk Marketing Board, 581 A.2d 1023 (Pa. Cmwlth. 1990) (Milk Marketing Board); D & B Auto Sales v. Department of State, State Board of Motor Vehicle Manufacturers, Dealers and Salesmen, 370 A.2d 428 (Pa. Cmwlth. 1977) (State Board of Motor Vehicle Manufacturers, Dealers and Salesmen).

The current case presents precisely the type of situation in which the de facto doctrine applies. Here, Officer Newcomer admitted that he did not take his oath of office until August 11, 2009, after he issued the citations to Mr. Frame in December 2008. (Hr'g Tr. at 16.) However, there is no dispute that Officer Newcomer was acting under the color of his title as Township Code Enforcement Officer when he cited Mr. Frame on December 16, 2008 and December 30, 2008. Indeed, Officer Newcomer signed the citations as the Code Enforcement Officer. (Citation Nos. P6916633-3, P6916634-4, P6916635-5 and P6916636-6.) Mr. Frame's challenge to the validity of the citations issued against him based on an irregularity or technical defect in Officer Newcomer's title to office is the type of collateral challenge our Supreme Court disapproved of in Pollock as being inimical to the orderly functioning of the government. Id. at 268, 318 A.2d at 913. Thus, we agree with the Commonwealth that, pursuant to the de facto doctrine, the citations issued by Officer Newcomer on December 16, 2008 and December 30, 2008 are valid.

Mr. Frame next argues that the trial court erred in concluding that it did not have jurisdiction to consider constitutional issues when it stated, "[i]f you believe the

law is unconstitutional Mr. Frame, then you should attack it in the appropriate forum. This is not the forum and we are not going to hear an attack on the Constitution, or constitutional issues in this Courtroom on this occasion." (Hr'g Tr. at 24.) We disagree.

Instead, we agree with the Commonwealth and the trial court that Mr. Frame took the trial court's statement out of context and that the trial court was not, as Mr. Frame contends, refusing to consider constitutional issues. Rather, this statement was associated with the trial court's refusal to allow Mr. Frame's witness, Mr. Smith, to testify as to his knowledge of "the Constitutional laws" and as to "what [the de facto doctrine] really is and what it needs to be." (Hr'g Tr. at 23-24.) Initially, we note that Mr. Frame did not present any evidence regarding Mr. Smith's expertise or qualifications in the law that would establish Mr. Smith as an expert witness. However, even if Mr. Smith was an expert, "[i]t is well-settled that an expert is not permitted to give an opinion on a question of law," and an expert may not be offered to testify as to the governing law or what the law requires, as these matters are for the court to decide. Waters v. State Employees' Retirement Board, 955 A.2d 466, 471 n.7 (Pa. Cmwlth. 2008). "The law is evidence of itself, and it is up to the courts, not a witness, to draw conclusions as to its meaning." Id. As Mr. Frame sought to introduce Mr. Smith's opinion and testimony on a question of law, i.e., what the de facto doctrine really is and what it needs to be; that testimony was inadmissible as that conclusion was for the trial court to decide. Id. Thus, we conclude that the trial court was not attempting to limit its jurisdiction over constitutional issues, but merely was preventing Mr. Frame from presenting inadmissible evidence in an effort to challenge the validity of the de facto doctrine. Moreover, a review of the record

reveals that, other than attempting to introduce Mr. Smith's testimony, Mr. Frame raised no other constitutional challenge to the validity of the de facto doctrine that he wanted the trial court to consider.[6] Accordingly, we reject Mr. Frame's argument that the trial court erred in this regard.

Mr. Frame also asserts that the trial court's order should be reversed because the citations failed to inform him of the nature and cause of the accusations against him in violation of Commonwealth v. Borriello, 696 A.2d 1215 (Pa. Cmwlth. 1997), Article 6 of the United States Constitution, and article I, section 9 of the Pennsylvania Constitution. Again, we disagree.

"[I]t is well established that the essential elements of a summary offense must be set forth in the citation so that the defendant has fair notice of the nature of the unlawful act for which he is charged." Borriello, 696 A.2d at 1217. In Borriello, this Court reversed a trial court's order that convicted the landowners of violating a municipality's ordinance because only two of the twenty-six citations issued mentioned specific defects in the property and none cited to the sections of the ordinance for which they ultimately were convicted. Id. at 1216. In reversing, we stated that the "[f]ormal accusation and specified charge enables a defendant to properly defend and protect himself from further prosecution of the same offense, and enables the court to determine the sufficiency of the prosecution's case to support a conviction." Id. at 1217. Our Court also cited to former Rule 90 of the Pennsylvania

[6] To the extent that Mr. Frame alleges that the trial court's comments disclosed bias or an unfit temperament, (Mr. Frame's Br. at 8), we see no evidence of such behavior or bias in the record and, consequently, we reject such allegations as being unfounded.

Rules of Criminal Procedure,[7] which proscribed dismissal for defects in the citation unless the defendants suffer actual prejudice to their rights. Id. "Such prejudice will not be found where the content of the citation, taken as a whole, prevented surprise as to the nature of summary offenses of which [the] defendant was found guilty of at trial, . . . or the omission does not involve a basic element of the offense charged." Id.

Here, a review of the citations themselves reveals that they specifically state which sections of the Township's Ordinance 177 and Ordinance 189 that Mr. Frame was charged with violating by having uncut high grass and/or weeds and a house trailer frame with an unsafe deck on the Property. (Citation Nos. P6916633-3 and P6916634-4, December 16, 2008; Citations Nos. P6916635-5 and P6916636-6, December 30, 2008.) The December 16, 2008 citations further indicated that Mr. Frame was cited for the same violations on June 12, 2008 and June 13, 2008. (Citation Nos. P6916633-3 and P6916634-4, December 16, 2008.) These citations provided Mr. Frame with sufficient information regarding the charges against him such that he could defend himself and enable the trial court to determine the sufficiency of the Commonwealth's evidence to support a conviction. Furthermore, as the trial court noted in its opinion, Mr. Frame acknowledged that the citations adequately described his violations for failure to cut the weeds and grass and for having an unsafe structure, the house trailer with deck, on the Property. (Trial Ct. Op. at 6-7 (citing Hr'g Tr. at 32, 34).) Finally, we note that Mr. Frame makes no

[7] Rule 90 was replaced with Rule 109 of the Pennsylvania Rules of Criminal Procedure, which indicates, *inter alia*, that a case will not be dismissed due to a defect in the form or content of a citation unless the defendant raises the defect before the conclusion of the trial in a summary case and the defect is prejudicial to the defendant's rights. Pa. R. Crim. P. 109 and *comment*.

assertion that he was prejudiced by the alleged lack of specificity in the citations. Therefore, we conclude that the citations adequately informed Mr. Frame of the accusations against him and, consequently, there was no violation of Mr. Frame's due process rights pursuant to Borriello.

Finally, Mr. Frame argues that the trial court erred when it declined to adjudicate his pre-trial motion in violation of Commonwealth v. Breslin, 732 A.2d 629 (Pa. Super. 1999). Mr. Frame "challenges the institutionalized bias of the [trial] [c]ourt in disregarding his pretrial and post-trial motions.[8] Summary cases have the same access to adjudication of punitive legal issues as so-called court cases." (Mr. Frame's Br. at 7.) Again, we disagree that the trial court erred in this regard.

In Breslin, the Superior Court held that a trial court erred when, based on the trial court's belief that motions to suppress are not available in summary offense matters, it denied a defendant's motion to suppress without allowing the defendant to introduce evidence relevant to the motion and without considering the issues underlying the motion. 732 A.2d at 632-33. The Superior Court rejected the trial court's reasoning, indicating that there was "no indication in our case law or rules of criminal procedure that motions to suppress are not properly brought in summary offense cases." Id. at 633. The Superior Court then explained "that we do not find

[8] Mr. Frame raises the issue of the trial court's alleged disregard of his post-trial motions for the first time in his brief to this Court. Because that issue was not raised in his Statement it is waived. Pa. R.A.P. 1925(b)(4)(vii) (stating, *inter alia*, that issues not included in a Statement of Matters Complained of on Appeal are waived). We note, however, that: (1) the trial court denied two post-trial motions on September 25, 2009, (Trial Ct.'s Orders, September 25, 2009); and (2) the Statement was filed on October 27, 2009, more than one month after the trial court denied Mr. Frame's post-trial motions.

that the lower court committed procedural error in not conducting a separate suppression hearing. Rather, we hold that the lower court erred by refusing to consider the issues raised in [the defendant's] motion." Id. at 633 n.3.

Contrary to the trial court's statement that only one pretrial motion was presented, (Trial Ct. Op. at 7), a review of the record in this matter shows that there were two pretrial motions before the trial court. However, contrary to Mr. Frame's allegations, both were adjudicated. The first was his Motion to Proceed in Forma Pauperis filed on April 2, 2009, which the trial court granted on April 9, 2009. (Trial Ct.'s Filings Information at 1.) The second was an oral motion made by Mr. Frame at the August 18, 2009 hearing requesting the trial court to consolidate all of the various citations he received from the Township, approximately sixty-three citations in all. (Hr'g Tr. at 4.) The trial court denied that motion because only the citations from December 16, 2008 and December 30, 2008 were assigned to that particular judge and the other citations were before other judges. (Hr'g Tr. at 5.) Thus, the trial court did not decline to adjudicate Mr. Frame's pretrial motions. Further, we discern no abuse of discretion, prejudice, or clear injustice to Mr. Frame in the trial court's denial of Mr. Frame's motion to consolidate the citations against him. See Commonwealth v. Gibbons, 549 A.2d 1296, 1299 (Pa. Super. 1988) (stating that "[t]he decision to grant or deny a motion for consolidation of charges for trial is a matter within the discretion of the trial court judge and . . . shall not be reversed absent a manifest abuse of discretion or a showing of prejudice and clear injustice to the defendant").

Accordingly, we affirm the trial court's order.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Richard Frame,	:	
	:	
Appellant	:	
	:	
v.	:	No. 1921 C.D. 2009
	:	
Menellen Township	:	

PER CURIAM

O R D E R

NOW, August 5, 2010, the order of the Court of Common Pleas of Fayette County in the above-captioned matter is hereby **AFFIRMED**.