IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Charlymane Vessells and Kevin Harrell	:	
v.	:	No. 2105 C.D. 2010
Officer Christopher Dipietro, Officer Paul Camarote, Officer Harry Jones, Officer Charlton Lane, Officer William Smith and Officer Steven Mitchell	:	Argued: October 18, 2011
Appeal of: Harry Jones	:	

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE P. KEVIN BROBSON, Judge
HONORABLE JAMES R. KELLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE KELLEY FILED: December 21, 2011

Officer Harry Jones appeals from an order of the Court of Common Pleas of Philadelphia County (Trial Court) denying Jones' Post-Trial Motion for Judgment Notwithstanding of Verdict and New Trial. We affirm in part, and vacate and remand in part.

Charlymane Vessells and Kevin Harrell, husband and wife, filed a civil complaint against City of Philadelphia (City) Police Officers Harry Jones, Charlton Lane, Steven Mitchell, William Smith, Christopher Dipietro, and Paul Camarote

(collectively, the Officers) for damages arising from an incident that occurred on January 19, 2006, when the Officers were on duty in their official capacities. Vessells and Harrell sued the Officers in their individual capacities, alleging that they were dragged from their parked car, beaten, and arrested for driving under the influence, aggravated assault, and resisting arrest. The complaint alleged that Officer Jones initiated the assault upon Vessells by removing her from her vehicle, punching her in the face, and slamming her face down into a sidewalk, causing serious injuries. The complaint further alleged that the remaining Officers joined in the assault against Harrell. The Officers, including Officer Jones, thereafter filed an answer.

A procedural course followed that included, in part relevant to the instant appeal, an amended complaint and Officer Jones' initial preliminary objections thereto challenging the validity of service upon, and concomitant personal jurisdiction over Jones. The Trial Court sustained Officer Jones' initial preliminary objections, which were uncontested. Vessells and Harrell then filed a motion for reconsideration, which the Trial Court granted, vacating the order sustaining Officer Jones' initial preliminary objections, and ordering Vessells and Harrell to answer the initial preliminary objections on the merits or file an amended complaint.

Vessells and Harrell subsequently filed a second amended complaint, and the Trial Court dismissed Officer Jones' initial preliminary objections as moot, including his objection to the validity of the service upon him. Thereafter, Officer

Jones filed an answer to the second amended complaint, which included a counterclaim against Vessells and Harrell for assault and battery. Vessells and Harrell filed a reply and cross claim. Officer Jones thereafter filed a second set of preliminary objections to Vessells' and Harrell's answer to Jones' new matter and counterclaim. The Trial Court subsequently ordered Officer Jones' second preliminary objections overruled except for his objection to the lack of verification; the Trial Court permitted Vessells and Harrell to attach a proper verification, which was timely attached thereafter.

The case proceeded to a jury trial on October 16, 2009, and the jury returned its verdict on October 30, 2009, in favor of Vessells and against Officer Jones only, among the Officers, on the assault, battery and intentional infliction of emotional distress counts, awarding $550,000.00 in damages ($350,000.00 in compensatory damages, and $200,000.00 in punitive damages). The jury found in favor of all of the Officers and against Harrell on Harrell's claims, and in favor of Vessells and Harrell and against Officer Jones on Jones' counterclaim. On November 6, 2009, Vessells and Harrell filed a bill of costs in the amount of $33,796.91. On November 10, 2009, Jones electronically filed exceptions to Vessells' and Harrell's bill of costs.

Officer Jones also filed a post-trial motion seeking entry of judgment notwithstanding of the verdict, and seeking a new trial, alleging error on the part of

the Trial Court in, *inter alia*, concluding that personal jurisdiction existed over Jones, and in failing to grant a mistrial in the wake of certain comments of Vessells' and Harrell's counsel in closing argument that Jones argued constituted inflammatory and prejudicial remarks. Jones' post-trial motion was denied by the Trial Court by order dated March 5, 2010. By separate order dated March 5, 2010, the Trial Court denied Officer Jones' exceptions to Vessells' and Harrell's bill of costs for failure to comply with the applicable rules of Court. On the same date, the Trial Court granted Vessells' and Harrell's motion for delay damages and molded the verdict to $564,895.00. Vessells thereafter filed a praecipe to enter judgment on the verdict, which the Trial Court granted by order dated March 29, 2010.

Officer Jones timely appealed to the Superior Court. The Superior Court transferred the matter to this Court[1] by order dated August 12, 2010.[2]

Officer Jones first argues that the judgment and related orders against him are invalid due to a lack of personal jurisdiction caused by defective service.[3] Officer Jones asserts that he was never personally served with the complaint in this

[1] When reviewing a trial court's denial of post-trial motions, this Court's scope of review is limited to determining whether the trial court abused its discretion or committed an error of law. Corbett v. Manson, 903 A.2d 69 (Pa. Cmwlth. 2006).

[2] By order of this Court dated March 17, 2011, Officers DiPietro, Camarote, Lane, Smith, and Mitchell have been precluded from filing briefs and participating in oral argument in this matter, due to their failure to file briefs in accordance with this Court's order of February 24, 2011.

[3] Officer Jones raised the lack of the invalid service in his initial preliminary objections. Reproduced Record (R.R.) at 77-78.

matter, but rather the City's Law Department was served as evidenced by the Affidavit of Service. R.R. at 57. Officer Jones emphasizes that while he previously worked for the City Police Department, he was retired before the service at issue, and did not authorize anyone in the City Law Department to accept service of a complaint on his behalf. While acknowledging that the Law Department did accept service of both the initial complaint, and the amended complaint,[4] on his behalf, Officer Jones emphasizes that the Law Department subsequently made it clear that it was not representing Officer Jones, and filed a petition to withdraw its representation on November 21, 2008. R.R. at 58. Absent any valid personal service directly on him, Officer Jones' argues that the Trial Court lacked personal jurisdiction over him in this matter, and that neither the judgment herein nor any of the Trial Court orders against him are valid.

Unlike subject matter jurisdiction, which cannot be waived and may be raised at any time, personal jurisdiction may be waived. Wagner v. Wagner, 564 Pa. 448, 768 A.2d 1112 (2001). On this issue, this Court has stated:

> For years, strict compliance with the rules pertaining to service was required for a case to proceed. See Sharp [v. Valley Forge Medical Center & Heart Hospital, Inc., 422

[4] The Trial Court held that the service issue was moot in light of Vessells' and Harrell's amended complaint, and service thereof. Trial Court Opinion at 5-10. Officer Jones argues that any service of the amended complaint did not cure the service defect, as neither the amended complaint nor the original complaint were personally served on Officer Jones, but were in fact served upon the Law Department.

Pa. 124, 221 A.2d 185 (1966)]; Beglin v. Stratton, 816 A.2d 370 (Pa. Cmwlth. 2003) (Procedural rules relating to service of process must be strictly followed because jurisdiction of the person of the defendant cannot be obtained unless proper service is made.); cf. Leidich v. Franklin, 575 A.2d 914 (Pa. Super.), petition for allowance of appeal denied, 526 Pa. 636, 584 A.2d 319 (1990) (plaintiffs' initial procedurally defective service was excused where the defendant had actual notice of the commencement of litigation and was not otherwise prejudiced). Failure to adhere to the rules of service often resulted in dismissal. Beglin; Cahill v. Schults, 643 A.2d 121 (Pa. Super. 1994); Teamann v. Zafris, 811 A.2d 52 (Pa. Cmwlth. 2002), petition for allowance of appeal denied, 574 Pa. 761, 831 A.2d 600 (2003).

Recently, our Supreme Court adopted a more flexible approach with regard to service of process. McCreesh v. City of Philadelphia, 585 Pa. 211, 888 A.2d 664 (2005). In McCreesh, the Supreme Court addressed the issue of whether a plaintiff's claim will be dismissed where the plaintiff's initial attempts at service do not technically comply with the rules. Therein, the plaintiff attempted service by sending the writ to the defendant by certified mail, which procedurally was not valid. Proper service, by hand delivery, was not effected until after the statute of limitations had expired. The Supreme Court determined that the plaintiff's technically deficient service by mail constituted a good faith effort at notice where the defendant had actual notice of the litigation and was not otherwise prejudiced. McCreesh. The Court held that dismissal is appropriate only if the plaintiff has demonstrated an intent to stall the judicial machinery or where failure to comply with the Rules of Civil Procedure has prejudiced the defendant. Id. The Court reasoned that this approach sufficiently protects defendants from defending against stale claims without the draconian action of dismissing claims based on technical failings that do not prejudice the defendant. Id.

Fraisar v. Gillis, 892 A.2d 74, 77-78 (Pa. Cmwlth. 2006) (footnote omitted). In Fraisar, we held that the trial court never obtained personal jurisdiction over the defendants notwithstanding the existence of subject matter jurisdiction, because Fraisar, a *pro se* inmate, failed to serve any of the defendants in that matter. Id. at 78. Fraisar had entrusted service of his complaint to the trial court's clerk of courts, which responsibility did not lie therewith. Id. at 75, 78.

In addition to recognizing that personal jurisdiction may be waived, our Supreme Court has held it to be axiomatic that a party may expressly or impliedly consent to a court's personal jurisdiction by affirmatively acknowledging consent, or by taking such steps or seeking relief that manifests submission to the court's jurisdiction. Wagner, 564 Pa. at 463, 768 A.2d at 1120. Once a party takes action on the merits of a case, he waives his right to object to defective service of process. O'Barto v. Glossers Stores, Inc., 324 A.2d 474 (Pa. Super. 1974). In O'Barto, the Superior Court found a waiver of jurisdictional objections when the third party defendant served interrogatories, filed an answer to the third party complaint, and sought to enjoin another defendant, all before questioning the propriety of service.[5] Id. at 476. The procedural facts of O'Barto parallel those of the instant matter.

[5] Although the Superior Court, in O'Barto, also found that the party challenging personal jurisdiction had waived that challenge due to untimely inaction in filing its objection on jurisdictional grounds, the Court's conclusion on waiver on procedural action grounds was independently held as a waiver of that objection: "[the] actions [of the party challenging personal

(Continued....)

In the case before us, it is beyond question that Officer Jones affirmatively acknowledged his consent to the Trial Court's jurisdiction over his person, and took or authorized steps that manifested submission to the Trial Court's jurisdiction. After Vessells' and Harrell's complaint was filed on December 12, 2007, and then timely served upon the Law Department, the Law Department contacted Officer Jones. In deposition testimony Officer Jones admitted that: the City informed him of the complaint filed against him; he met with Attorney Fenerty of the City Law Department regarding the complaint, who initially informed him that the City would represent him; he assumed the City was representing him, and; that he had no problems with the City's representation. August 28, 2009 Deposition of Officer Harry Jones, Original Record (O.R.) at Item 122.

Thereafter, and without objection from Officer Jones, Attorney Fenerty took the following actions in support of her representation of Officer Jones:

- Signed a verification to the Officers' (inclusive of Officer Jones) Answer to Complaint and New Matter, noting her authorization on all of the Officers' behalf. R.R. at 4; O.R. at Item 7;

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jurisdiction], subsequent to the filing of appellant's complaint, clearly demonstrates active participation in the litigation of the lawsuit on the merits. Thus, the appellee has taken that 'further action to the merits' which evidenced an intent to forego any objection to the defective service." O'Barto, 324 A.2d at 476 (citations omitted).

- On March 10, 2008, attended a case management conference on behalf of the Officers, including Officer Jones. Case Management Order, R.R. at 5; O.R. at Item 10;
- On March 17, 2008, entered her appearance on Officer Jones' behalf. R.R. at 5; O.R. at Item 11;
- Served interrogatories on Officer Jones' behalf, and defended a motion to compel Officer Jones' deposition. R.R. at 7-8; O.R. at Item 21-23.

The City continued to represent Officer Jones for over 11 months. On September 8, 2008, the City informed Officer Jones via letter that it would not continue to represent him. R.R. at 64. On October 16, 2008, Officer Jones, through his own newly retained attorney, Attorney Puricelli, requested continued representation from the City via letter. R.R. at 72. It was not until late November of 2008 that Attorney Fenerty and Attorney Puricelli agreed that only Attorney Puricelli would represent Officer Jones, and Attorney Fenerty withdrew her appearance on his behalf. R.R. at 10, 58-62.

Officer Jones' service and concomitant jurisdictional issues were not an issue for Jones until nearly a year after the initial complaint was filed and served, and only arose *after* the City decided to terminate its representation. Preliminary Objection, R.R. at 77. The docket to this matter shows that only after Officer Jones' substituted Attorney Puricelli for Attorney Fenerty did these issues arise. R.R. at 1-

10; 77. Notwithstanding Officer Jones' argument that he was retired when the City accepted service on his behalf, Attorney Fenerty's actions on Jones' behalf, with Jones' clear knowledge and acquiescence for over 11 months, renders the jurisdictional issue without merit.[6,7] Wagner; accord Fraisar, O'Barto.

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[6] Notwithstanding Officer Jones' repeated assertions that he was never personally served with the complaint at issue, and his implicit argument that he therefore could not have timely responded thereto, we emphasize that nowhere in the record to this matter does Jones dispute the facts regarding his actual notice of timely service upon the Law Department on his behalf, as noted in our recitation of the foregoing facts. As such, in the initial answer (on Officer Jones' behalf by the Law Department, without objection by Jones) to the complaint of February 19, 2008, Jones did not assert a defense of lack of jurisdiction, failure to conform to rule of court or law, insufficient specificity, or legal insufficiency of a pleading, in response to Vessells' and Harrell's averments or in new matter. Pursuant to Pa.R.C.P. No. 1032, in answering the complaint Officer Jones waived his right to challenge personal jurisdiction, failure to conform to rule of court or law, insufficient specificity, or legal insufficiency of a pleading. Consequently, Officer Jones' later strategy of filing a preliminary objection was untimely, having been filed some 11 months after the initial complaint was filed. Pa.R.C.P. No. 1026 (allowing for 20 day filing period following filing of complaint); O'Barto, 324 A.2d at 475 (where untimely filing of preliminary objections is not excused and would prejudice the opponent, they must be dismissed as waived). Had Officer Jones timely filed his preliminary objections to service, Vessells and Harrell would have had ample opportunity to remedy any defects. Officer Jones has offered no adequate reason for his untimely preliminary objections.

[7] Additionally, notwithstanding Officer Jones' argument to the contrary, the Trial Court did decide the merits of the issue of service and personal jurisdiction (notwithstanding Officer Jones' acquiescence). On January 26, 2009, the Trial Court vacated its order of December 29, 2008 (which had sustained Officer Jones' initial preliminary objections). See R.R. at 88-89. In that order, the Trial Court directed a response to Officer Jones' preliminary objections, or an amended complaint within 20 days. Id. On February 10, 2009, Vessells and Harrell filed a second amended complaint with notice filed electronically on Officer Jones' new attorney of record, Attorney Puricelli (who had entered his appearance on Officer Jones' behalf on November 26, 2008). R.R. at 10. On April 1, 2009, after further review of the case, the Trial Court entered an order clearly addressing its consideration of Officer Jones' service/jurisdiction issues and holding them moot in light of Vessells' and Harrell's second amended complaint. R.R. at 16. The April 1, 2009 order is clear on its face in resolving the issues based on the proper service of the second amended complaint rendering those issues moot. Finally, on May 27, 2009, after Officer Jones filed his notice of error, the Trial Court issued an order overruling Officer Jones' second preliminary

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Next, Officer Jones argues that the Trial Court erred in denying his Motion for Mistrial due to the prejudice suffered by Jones following Vessells' and Harrell's counsel's closing remarks referencing Rodney King. Officer Jones asserts that Vessells' and Harrell's counsel, Attorney Williams, made reference to the jury that the photographs of Vessells' injuries reminded counsel of the Rodney King Los Angeles police assault case, stating:

> This is outrageous conduct. This is outrageous conduct, and you can't tell me nothing that they will say is going to give them the excuse for doing this kind of stuff to a woman. **When I looked at these pictures, I thought to myself, it looks like Rodney King, but it was a female.**

Excerpt of Jury Trial, Vol. VII, R.R. at 204 (emphasis added). The record shows that Officer Jones' counsel moved for a mistrial, and that the Trial Court stated its concern at a sidebar. Id., R.R. at 204-207. The record further shows that the Trial Court Judge gave a curative instruction to the jury regarding the Rodney King comments. Id., R.R. at 204-205.

Officer Jones argues that Attorney Williams' Rodney King comment created an anger and prejudice towards Officer Jones that could not be cured with a curative instruction, in that the statement was so inflammatory and linked to a widely publicized event, that its mere mention created an incurable prejudice. We disagree.

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objections on all grounds except for the missing verification, which was thereafter promptly supplied, resolving Jones' objections. R.R. at 108. All of the relevant Trial Court orders were clearly written, were not an abuse of discretion, and were not errors of law.

As the Trial Court noted, a mistrial is only appropriate where the disputed trial occurrence is so inflammatory and prejudicial so as to preclude a fair trial, and so as to have "undoubtedly influenced the jury, distracting the minds of the jurors from the pivotal issue and influencing their verdict." Harsh v. Petroll, 840 A.2d 404, 432 (Pa. Cmwlth. 2003).[8] The decision to grant or deny a motion for mistrial rests primarily in the discretion of the trial court, and absent a clear abuse of that discretion, this Court will not disturb the trial court's ruling. Daddona v. Thind, 891 A.2d 786 (Pa. Cmwlth.), petition for allowance of appeal denied, 589 Pa. 732, 909 A.2d 306 (2006). The issue of whether a court abused its discretion in denying a motion for mistrial must be determined by the circumstances under which the alleged improper statements were made and the precautions taken to prevent the prejudicial effect of those statements on the jury. Id. A trial judge enjoys broad powers and discretion in the handling of alleged prejudicial remarks made during argument, and the trial court's charge to the jury may serve to counter any prejudice that may arise from counsel's remarks. Id. Our review of the transcript in this matter reveals no abuse of discretion by the Trial Court judge, and a properly curative instruction and related inquiry given to the jury.

[8] Aff'd, 584 Pa. 606, 887 A.2d 209 (2005).

The record reveals that Attorney Williams never argued that the facts in the King case were similar to the instant facts. Attorney Williams never made any direct statement to the jury suggesting any specific sum of money, or that the verdict should be the same or similar as in the King case. Attorney Williams' statement was a single analogy and cannot be read to have undoubtedly fixed bias and hostility towards Officer Jones, and the statement was not so inflammatory or prejudicial as to have influenced the jury necessitating a mistrial. Most importantly, the Trial Court Judge stopped Attorney Williams' closing and gave a long extensive curative instruction specifically asking if anyone could not decide the case based on the evidence, and not on Attorney Williams' statement. Excerpt of Jury Trial, Vol. VII, R.R. at 204-207. Attorney Williams was not allowed to continue his closing until the Court was assured by the jury that the statement would not have any bearing on its decision. Id.

Accordingly, we conclude that the Trial Court Judge, with the benefit of presiding over the entire trial and of watching and listening to the jury's affirmations, was in the best situation to determine the necessity of a mistrial, and that his refusal to so grant in this matter does not constitute an abuse of discretion. Daddona; Harsh.

Next, Officer Jones argues that the Trial Court erred in awarding delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.[9] Officer Jones' arguments on this issue are all founded upon his assertions that the Trial Court's award of delay damages did not account for Vessells' and Harrell's delays, which

[9] Pa. R.C.P. No. 238 reads, in relevant part:

> Damages for Delay in Actions for Bodily Injury, Death or Property Damage
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> (a)(1) At the request of the plaintiff in a civil action seeking monetary relief for bodily injury, death or property damage, damages for delay shall be added to the amount of compensatory damages awarded against each defendant or additional defendant found to be liable to the plaintiff in the verdict of a jury, in the decision of the court in a nonjury trial or in the award of arbitrators appointed under section 7361 of the Judicial Code, 42 Pa.C.S. §7361, and shall become part of the verdict, decision or award.
>
> (2) Damages for delay shall be awarded for the period of time from a date one year after the date original process was first served in the action up to the date of the award, verdict or decision.
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> * * *
>
> (c) Not later than ten days after the verdict or notice of the decision, the plaintiff may file a written motion requesting damages for delay and setting forth the computation…
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> * * *
>
> (1) Within twenty days after the motion is filed, the defendant may answer specifying the grounds for opposing the plaintiff's motion. The averments of the answer shall be deemed denied. If an issue of fact is raised, the court may, in its discretion, hold a hearing before entering an appropriate order.
>
> (2) If the defendant does not file an answer and oppose the motion, the prothonotary upon praecipe shall add the damages for delay to the verdict or decision in the amount set forth in the motion.

Jones argues were caused by (or resulted from) improper service in this matter. Having found no merit in Officer Jones' repeated arguments regarding the service to which he acquiesced in this matter, we find no merit in Jones' arguments on this issue, and no error or abuse of discretion on the part of the Trial Court. Corbett.

Finally,[10] Officer Jones argues that the Trial Court erred and/or abused its discretion in awarding costs. Regarding its award of costs, the Trial Court wrote:

> [Vessells] filed a bill of costs on November 6, 2009, to which [Officer Jones] filed exception.
>
> Philadelphia Local Rule 227.5 permits a prevailing party to file a bill of costs, itemizing the costs claimed to be due, with the Prothonotary within ten days after final judgment. Phila. Cty. LR227.5 (2009).
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> Rule 227.5(E) states that "[n]o later than twenty days after final judgment, exceptions (identifying those costs to which objection is made with the reason therefor) shall be filed with the Prothonotary and a copy served on other parties."

[10] In his brief to this Court, Officer Jones also argues that at trial he requested a self-defense charge, which was not read to the jury, resulting in reversible error. Further, Jones argues that the jury did not fully understand its duty and the law in regards to the required findings for the imposition upon a police officer of liability for assault and battery. Officer Jones has waived these arguments by failing to preserve them in his statement of Rule 1925 Issues pursuant to the Trial Court's Order under Pennsylvania Rule of Appellate Procedure 1925(b). Pa. R.A.P. 1925(b)(4) requires a party on appeal from a trial court to, *inter alia*, identify each challenged ruling and/or error with sufficient detail enabling the trial court to identify all pertinent issues being appealed. Issues not so included within a party's Statement are waived, and we will therefore not address the two issues identified herein that Officer Jones has failed to identify within his 1925(b) Statement. Pa. R.A.P. 1925(b). See Golovach v. Department of Transportation, Bureau of Driver Licensing, 4 A.3d 759 (Pa. Cmwlth. 2010), petition for allowance of appeal denied, ___Pa.___, 23 A.3d 543 (2011) (party failed to preserve for appellate review issue not raised in its concise statement of matters complained of on appeal pursuant to Pa. R.A.P. 1925(b)).

> Rather than following the procedure mandated by Rule 227.5(e) [sic], [Officer Jones] filed his exceptions with the Clerk of Civil Court. Having failed to file his exceptions with the Prothonotary as required by Rule 227.5(E), [Officer Jones'] exceptions were dismissed.

Trial Court Opinion at 14-15 (footnote omitted).

Officer Jones argues that his exceptions to Vessells' and Harrell's bill of costs were in fact timely filed by Jones' counsel, but that the Trial Court erred in refusing to address those exceptions on their merit. Officer Jones argues that the Trial Court's Local Rule 205.4 required electronic filing, and admits of no exception, which rule Jones' now argues he followed. See Philadelphia Municipal Court Civil Procedure Rule 205.4, R.R. at 327-328. Officer Jones asserts that he had no choice of precisely where to electronically file the exceptions, save for the choice of Civil or Orphan Court, since electronic filing is automatically made to the prothonotary by default and cannot be changed by the user. Officer Jones argues that it was an abuse of discretion or error of law to not decide the exceptions, under the circumstances of filing listed above, in that the electronic filing system is mandatory, the exceptions at issue were timely and of record, and no prejudice or delay by Vessells or Harrell was suffered on this issue.

The Trial Court's docket entries to this matter show that Officer Jones filed his exceptions to Vessells' and Harrell's bill of costs on November 10, 2009, a

matter of a mere four days after the bill of costs was filed, and four days after the docket entry entering the verdict in Vessells' favor. R.R. at 34. That entry makes no reference to how, or precisely with which Trial Court office, the exceptions were filed. Id.; see also O.R., Docket Entries at 27. Likewise, having been filed electronically, Officer Jones' exceptions within the record are bereft of any designation decipherable by this Court as to how, or precisely with which Trial Court office, those exceptions were filed. O.R., Item 130 (see Certificate of Service stating fact of electronic filing).

The Trial Court did not address Officer Jones' assertions regarding his electronic filing. The entirety of the record to this matter, on this narrow and limited issue, is without sufficient detail and information to enable this Court's effective appellate review of the issue.

Pennsylvania Rule of Civil Procedure 126 states:

> The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Given the incomplete record on this issue, the Trial Court's failure to address the gravamen of Officer Jones' argument thereon, and the requirement that both this Court and the Trial Court shall construe the procedural rules to secure the just determination of every action and proceeding to which they are applicable, we are

constrained to vacate the Trial Court's order of March 5, 2010, denying Jones' exceptions and concomitant award of costs to Vessells and Harrell, and we remand this matter for further proceedings consistent with this opinion. If the Trial Court determines that Vessells' and Harrell's exceptions were properly electronically filed, it follows that the merits of those exceptions should also be addressed on remand.

In all other respects, we affirm the Trial Court's orders of March 5, 2010, denying Officer Jones' post-trial motion, and molding the jury verdict herein to reflect delay damages as found by the Trial Court.

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JAMES R. KELLEY, Senior Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Charlymane Vessells and Kevin Harrell	:	
v.	:	No. 2105 C.D. 2010
Officer Christopher Dipietro, Officer Paul Camarote, Officer Harry Jones, Officer Charlton Lane, Officer William Smith and Officer Steven Mitchell	:	
Appeal of: Harry Jones	:	

O R D E R

AND NOW, this 21st day of December, 2011, the order of the Court of Common Pleas of Philadelphia County dated March 5, 2010, denying Officer Harry Jones' exceptions to the bill of costs is vacated, and this matter is remanded for further proceedings consistent with the foregoing opinion. The Trial Court's orders of March 5, 2010, denying Officer Jones' post-trial motion, and molding the jury verdict herein to reflect delay damages, are affirmed.

Jurisdiction relinquished.

JAMES R. KELLEY, Senior Judge