

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Sandra M. Schiaffino, :
Appellant :
v. : No. 803 C.D. 2009
Commonwealth of Pennsylvania : Submitted: November 6, 2009

OPINION NOT REPORTED

MEMORANDUM OPINION
PER CURIAM

FILED: January 5, 2010

Sandra M. Schiaffino appeals, pro se, the order of the Court of Common Pleas of Bucks County (trial court) granting the Borough of Perkasie's (Borough) motion to quash the praecipe for a writ of certiorari filed by Joseph P. Schiaffino, her husband. We affirm.

On December 11, 2007, the Borough filed a non-traffic citation against Sandra M. Schiaffino for a violation of the Borough's Code of Ordinances in Magisterial District Court Number 07-7-03 (district court). On December 28, 2007, the district court issued a notice of trial which stated that a trial on the summary violation would be conducted in that court on February 5, 2008.

On January 18, 2008, Joseph P. Schiaffino filed a praecipe for a writ of certiorari in the trial court. On the form, Joseph P. Schiaffino wrote his own name in the box labeled "NAME OF PARTY FILING THIS PRAECIPE AND OBTAINING THIS WRIT", indicated that the praecipe was "IN THE CASE OF" "C.W. OF PENNSYLVANIA vs. SANDRA M. SCHIAFFINO", and signed the praecipe "Joseph P. Schiaffino P.O.A.". On February 14, 2008, the Borough filed

a motion to quash the praecipe. On February 21, 2008, Joseph P. Schiaffino, P.O.A., for Sandra M. Schiaffino, filed a motion to dismiss the Borough's motion to quash based upon the Borough's lack of standing.

On March 4, 2008, the trial court issued a rule to show cause why the Borough's motion to quash should not be granted. On October 6, 2008, the Borough filed a motion to make the rule absolute. On October 10, 2008, Joseph P. Schiaffino, P.O.A., for Sandra M. Schiaffino, filed a response to the Borough's motion.

On January 27, 2009, Joseph P. Schiaffino, P.O.A., for Sandra M. Schiaffino, filed a second motion to dismiss the Borough's motion to quash based upon the Borough's lack of standing. On February 19, 2009, Joseph P. Schiaffino, P.O.A., for Sandra M. Schiaffino, filed a motion for a rule to show cause why the Borough's motion to quash should not be nullified and removed from the trial court's records.

On March 31, 2009, the trial court conducted a hearing on the motions filed in the matter. Joseph P. Schiaffino appeared at the hearing, and counsel for the Borough appeared at the hearing. Following the hearing the trial court issued an order granting the Borough's motion to quash Joseph P. Schiaffino's praecipe for a writ of certiorari. Sandra M. Schiaffino then filed the instant appeal of the trial court's order.¹

In this appeal, Sandra M. Schiaffino claims that the trial court erred in granting the Borough's motion to quash because: (1) the trial court committed an error of law in granting the motion to quash; (2) the court erred in granting the

¹ A lower court's decision on the issuance of a writ of certiorari will not be disturbed absent an abuse of discretion. Commonwealth v. Oliver, 869 A.2d 1167 (Pa. Cmwlth. 2005).

Borough standing in the proceedings; and (3) the trial court erred in denying Sandra M. Schiaffino's right to appoint Joseph P. Schiaffino to stand in her place in the proceedings via a durable power of attorney.

However, based upon our review of the record in this case, we conclude that the trial court thoroughly and correctly analyzed the claims raised by Sandra M. Schiaffino in this appeal, and that this matter was ably disposed of in the concise and well-reasoned opinion of the Honorable Robert J. Mellon. Accordingly, we affirm of the basis of the opinion in Commonwealth v. Sandra Schiaffino, (No. 2008-00603-24-1, filed June 9, 2009).²

² We note that Footnote 7 of the trial court opinion should correctly read "City of Philadelphia v. Home Agency, Inc., 285 A.2d 196, 198 (Pa. Cmwlth. 1971) (footnotes omitted)".

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| Appellant | : | |
| | : | |
| v. | : | No. 803 C.D. 2009 |
| | : | |
| Commonwealth of Pennsylvania | : | |

PER CURIAM

ORDER

AND NOW, this 5th day of January, 2010, the order of the Court of Common Pleas of Bucks County, dated March 31, 2009 at No. 2008-00603-24-1, is AFFIRMED.