

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

FREEDOM MORTGAGE CORPORATION	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
JOHN M. YANKAUSKAS	:	
	:	
Appellant	:	No. 349 EDA 2026

Appeal from the Order Entered January 13, 2026
In the Court of Common Pleas of Northampton County Civil Division at
No(s): C-48-CV-2025-02038

BEFORE: PANELLA, P.J.E., STABILE, J., and KING, J.

JUDGMENT ORDER BY KING, J.: **FILED SEPTEMBER 29, 2026**

Appellant, John M. Yankauskas, appeals from the order entered in the Northampton County Court of Common Pleas, granting summary judgment in favor of Appellee, Freedom Mortgage Corp., in this ejectment action. We affirm.

On December 6, 2024, Appellee purchased at sheriff's sale real property located at 4005 Cedar Drive, Walnutport, Pennsylvania, 18088 ("the Property"). Appellee filed an ejectment action against Appellant on March 5, 2025, to remove him and other occupants from the Property. On June 3, 2025, Appellant filed an answer claiming the earlier foreclosure and sheriff's sale were improper. Appellee filed a motion for summary judgment on September 4, 2025. Appellant did not file a response to the motion for summary judgment and did not appear at the January 13, 2026 summary judgment hearing. On January 13, 2026, the trial court granted Appellee's

motion for summary judgment, entered a judgment of ejectment against Appellant, and gave Appellee immediate possession of the Property. Appellant timely appealed.¹

Appellant raises the following two issues on appeal:

1. Whether the sheriff's sale of Appellant's property is void where the sale occurred after Appellant filed for bankruptcy, thereby triggering the automatic stay under 11 U.S.C. § 362.
2. Whether the trial court erred in ordering eviction where the underlying sheriff's sale was conducted in violation of federal bankruptcy law.

(Appellant's Brief at unnumbered page 2).

"We review an order granting summary judgment for an abuse of discretion." ***Bank of America, N.A. v. Gibson***, 102 A.3d 462, 464 (Pa.Super. 2014).

A party bearing the burden of proof at trial is entitled to summary judgment "whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report[.]" Pa.R.C.P. No. 1035.2(1). In response to a summary judgment motion, the nonmoving party cannot rest upon the pleadings, but rather must set

¹ On February 4, 2026, the trial court issued an order directing Appellant to file and serve a concise statement of errors complained of on appeal. Appellant failed to file and serve the concise statement, which would generally result in waiver of his claims on appeal. ***See Greater Erie Indus. Dev. Corp. v. Presque Isle Downs, Inc.***, 88 A.3d 222, 225 (Pa.Super. 2014) (*en banc*). However, there is no indication on the docket that notice of the trial court's order directing Appellant to file a Rule 1925(b) statement was given as required by Pennsylvania Rule of Civil Procedure 236(b). Accordingly, we decline to find waiver on this basis. ***See* Pa.R.C.P. 236; *Forest Highlands Cmty. Ass'n v. Hammer***, 879 A.2d 223, 227 (Pa.Super. 2005).

forth specific facts demonstrating a genuine issue of material fact. Pa.R.C.P. No. 1035.3.

Id. It is well established that a non-moving party must respond to a motion for summary judgment, and if that party fails to respond the trial court may enter summary judgment on the basis of that failure. **Harber Philadelphia Ctr. City Off. Ltd. v. LPCI Ltd. P'ship**, 764 A.2d 1100, 1104 (Pa.Super. 2000), *appeal denied*, 566 Pa. 664, 782 A.2d 546 (2001).

Instantly, Appellant failed to respond to Appellee's motion for summary judgment, despite being obligated to do so under Pa.R.C.P. 1035.3.² Thus, the trial court did not abuse its discretion in granting summary judgment in favor of Appellee.³ **See Bank of America N.A., supra; Harber, supra.**

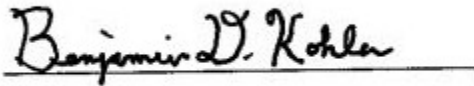
² Moreover, it is well settled that a former property owner cannot collaterally attack a sheriff's sale held in a foreclosure action in a subsequent ejectment action. **See Federal Nat'l Mortg. Ass'n v. Citiano**, 834 A.2d 645, 648 (Pa.Super. 2003) (holding collateral attack on mortgage foreclosure action is invalid defense to ejectment action). Because Appellant does not aver that he was denied adequate notice of the foreclosure action, he is not entitled to the narrow exception that would allow him to assert that issue in this collateral proceeding. **See Meritor Mortg. Corp.-E. v. Henderson**, 617 A.2d 1323 (Pa.Super. 1992) (stating: "If adequate notice of the foreclosure action was not given, the court lacked jurisdiction to enter judgment").

³ We further observe that, "[t]he automatic stay set forth in 11 U.S.C. § 362(a)(1) upon the filing of a bankruptcy petition precludes any non-bankruptcy court, including state and federal courts, from continuing judicial proceedings pending against the debtor." **Stop Blight Inc. v. Dinardo**, 303 A.3d 516, 519 (Pa.Super. 2023) (brackets and citation omitted). Here, Appellant has provided no information on appeal to substantiate his claim that bankruptcy proceedings were ongoing at the time of the sheriff's sale. The only documents in the certified record related to bankruptcy are a partial photo of an undated letter acknowledging a bankruptcy case number, but without a
(Footnote Continued Next Page)

Accordingly, we affirm and strike this case from the argument list.

Order affirmed. Case stricken from oral argument list.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/29/2026

name of the individual who initiated the bankruptcy proceedings or a date of when such proceedings were initiated, and an email from an individual named Annie from a group called CARE services that mentions a bankruptcy being active, but does not provide a date on which the bankruptcy was filed. (Answer, 6/3/25, at Exhibits).