

**[J-149-2012][M.O. – Per Curiam]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 653 CAP
	:	
Appellee	:	Appeal from the Order entered on
	:	1/31/12 in the Court of Common Pleas,
v.	:	Criminal Division of Dauphin County at
	:	No. CP-22-CR-0001773-2000
HERBERT BLAKENEY,	:	
	:	
Appellant	:	SUBMITTED: December 11, 2012

**DISSENTING OPINION**

**MR. JUSTICE SAYLOR**

**DECIDED: December 29, 2014**

As noted by Mr. Chief Justice Castille, Appellant submitted a report of a forensic psychiatrist to the PCRA court, containing the opinion that Appellant lacked competency at the time of his trial, including the ability to knowingly and intelligently waive his rights and represent himself. Were this opinion to be believed, Appellant would be entitled to relief in the form of a new trial.

Given, then, the material factual dispute concerning Appellant's competency, the applicable rules of criminal procedure required an evidentiary hearing for such controversy to be resolved on a developed record. See Pa.Crim.P. 909(B). Since no hearing was afforded, I would remand for the appropriate procedure to be implemented.