

**[J-101-2007]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 497 CAP
	:	
Appellee	:	Order entered on 12/30/2005 denying
	:	PCRA relief in the Court of Common
v.	:	Pleas, Criminal Division of Philadelphia
	:	County at Nos. 9704-0013 & 9703-312
	:	July Term 1997
	:	
RICARDO NATIVIDAD,	:	
	:	
Appellant	:	SUBMITTED: September 5, 2007
	:	

**CONCURRING OPINION**

**MR. CHIEF JUSTICE CAPPY**

**DECIDED: December 27, 2007**

I concur in the result of the majority opinion for the reasons set forth more fully in my concurring opinion in Commonwealth v. Marinelli, 910 A.2d 672, 689-90 (Pa. 2006). As the majority points out, this case does not involve any “layered” claims of ineffectiveness. Thus, there is no need to consider the case law analyzing “layered” claims and the analysis in this case is controlled by Commonwealth v. Pierce, 527 A.2d 973 (Pa. 1987). For this reason, I respectfully disassociate myself from the majority’s proffered alternative analyses. As I stated in Marinelli, “either Appellant has raised his claims in a manner sufficient for review under Pierce or they are waived.” 910 A.2d at 690.