

[J-222-2004]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	Nos. 421 & 422 CAP
	:	
Appellant/Cross-Appellee	:	Appeals from the Orders of the Court of
	:	Common Pleas of Philadelphia County,
	:	dated May 14, 2002 and May 29, 2003,
v.	:	granting in part and dismissing in part the
	:	petition for relief under the Post Conviction
	:	Relief Act
CHRISTOPHER WILLIAMS,	:	
	:	
Appellee/Cross-Appellant	:	
	:	SUBMITTED: December 27, 2004
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	:	
	:	

CONCURRING OPINION

JUSTICE FITZGERALD

DECIDED: November 26, 2007

I join fully in the majority’s analysis and conclusion affirming the PCRA court’s order vacating appellee’s Pa.C.O.A. conviction, and remanding to the PCRA court for consideration of most of his collateral claims pursuant to our decision in Commonwealth v. McGill, 832 A.2d 1014 (Pa. 2003). I also join in the majority’s conclusion that trial and direct appeal counsel were not ineffective for failing to raise Besch-related claims, and in the majority’s subsequent finding that the admission of the evidence challenged by appellee “cannot be deemed prejudicial where the jury expressly found appellee criminally responsible for only the murders and robberies in which he was the actual shooter.” M.O. at 29. As the majority notes, “the jury obviously rejected the evidence submitted in support of [the five unfounded predicate] acts.” Id. As a result of the jury’s acquitting appellee of

crimes in which he was not the shooter, I agree that appellee was not prejudiced by the admission of evidence unrelated to the murders of Gavin Anderson, Kevin Anderson, and Otis Reynolds. Because I believe that this would be a sufficient basis upon which to find a lack of Strickland/Pierce prejudice, I see no need to address the specific admissibility of each piece of evidence challenged by appellee. Accordingly, I decline to join that portion of the majority opinion.

Mr. Justice Baer joins this concurring opinion.