

[J-99-2000]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 247 CAPITAL APPEAL DOCKET
	:	
Appellee	:	Appeal from the Order entered on
	:	10/20/98 in the Court of Common Pleas of
	:	Philadelphia County, Criminal Division, at
v.	:	No. 2362-2367 August Term 1984
	:	
	:	
TERRENCE WILLIAMS,	:	
	:	SUBMITTED: June 7, 2000
Appellant	:	
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	:	
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DISSENTING OPINION

MR. JUSTICE NIGRO

DECIDED: December 22, 2004

I dissent, as I agree with Justice Saylor that Appellant has demonstrated that his trial counsel was ineffective for failing to adequately investigate and present evidence of mitigation, including evidence of Appellant’s mental health and abusive childhood, at his penalty phase hearing. Appellant, however, has presented only a boilerplate allegation that appellate counsel was ineffective for failing to raise trial counsel’s ineffectiveness in this regard. Thus, as the majority notes, Appellant has not preserved an ineffectiveness claim arising from appellate counsel’s deficient performance and such a claim is the only one on which relief may be granted. See Slip Op. at 7. Given these circumstances, I would, consistent with this Court’s recent decision in Commonwealth v. McGill, 832 A.2d

1014 (Pa. 2003), remand the matter to provide Appellant with the opportunity to develop his claim as it relates to appellate counsel's performance.