

[J-133-1998]
THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

IN THE INTEREST OF D.M. : No. 14 E.D. Appeal Docket 1997
: :
: :
APPEAL OF: D.M. : Appeal from the Order of the Superior
: Court, dated July 31, 1996, at No. 2779
: Philadelphia 1995, affirming the
: Adjudication of Delinquency of the Court
: of Common Pleas of Philadelphia County,
: Juvenile Division, dated July 21, 1995, at
: No. 4098-95-6
: :
: RESUBMITTED: June 15, 1998

DISSENTING OPINION

MR. JUSTICE ZAPPALA

DECIDED: APRIL 1, 1999

I must respectfully dissent. Under the jurisprudential standards of this Commonwealth, no person, under any circumstance, can be detained and deprived of any right, constitutional or otherwise, simply as a result of race, ethnicity, gender or any other discriminatory classification. The individual rights constitutionally guaranteed to each and every citizen of this Commonwealth preclude the use of such discriminatory classifications as a pretext for intrusion by the state, no matter how laudatory the goals of law enforcement officials and irrespective of the seriousness of the crime under investigation.

In this case, the police stopped, detained and searched Appellant solely on the basis that he was among a group of black males who happened to be in the vicinity of a recently completed robbery and changed their direction upon encountering the police. Accordingly, I must conclude that this unwarranted police action constituted a violation

of Appellant's right under the Fourth Amendment of the United States Constitution to be free from unreasonable searches and seizures.