PALMER, J., concurring. I agree with the majority's conclusion that the Appellate Court improperly determined that the defendant, Oles J. Baptiste, waived his claim that the trial court's jury instructions were constitutionally inadequate. Specifically, I agree that the defendant's claim is not foreclosed under the waiver principles that this court recently adopted in *State* v. *Kitchens*, 299 Conn. 447, 10 A.2d 942 (2011).

In addition to resolving this issue—the sole issue presented by the defendant's certified appeal—the majority also states that "advance written copies of [the court's jury instructions] should be provided to counsel in all trials, except for possibly the shortest of trials where it is not feasible." The majority further explains that, "if the [trial] court chooses to conduct the charging conference off the record, it should take care to accurately note the matters discussed in the conference once the parties are back on the record, and the court should invite counsel's acquiescence with regard to those comments." Although I agree that, whenever feasible, the trial court should provide the parties with advance written copies of the jury charge, and that it also makes sense for the court to summarize accurately the matters discussed at any off-the-record charging conference, in my view, these practices are to be encouraged because they are important components of a process designed to ensure that the court's jury instructions are fair, thorough and balanced. See, e.g., Practice Book §§ 42-16 through 42-19. To the extent that the majority encourages these practices in the interest of creating a record in the trial court that increases the likelihood that a claim of instructional error will be deemed to have been waived under *Kitchens*, however, I do not share that perspective. As I explained in my concurring opinion in *Kitchens*, I do not believe that defense counsel's failure to object to the trial court's jury instructions on constitutional grounds after having been afforded a reasonable opportunity to review them provides a sufficient basis for the conclusion that counsel knowingly and intentionally waived any and all such objections on behalf of the defendant. Indeed, it is far more likely that defense counsel simply did not perceive any constitutional infirmity in the instructions. See *State* v. *Kitchens*, supra, 299 Conn. 538–42 (*Palmer*, *J.*, concurring); see also id., 517–19 (*Katz*, *J.*, concurring). Because I remain unconvinced by the rationale of *Kitchens*, and, further, because I believe that this court's decision in *Kitchens* unfairly and unreasonably deprives defendants of *Golding* review of unpreserved constitutional challenges to jury instructions, I do not favor adopting measures that are designed to facilitate or promote the implementation of our holding in *Kitchens*. In any event, I agree with the majority's conclusion

in the present case that the defendant's constitutional claim is not barred by *Kitchens*. I therefore concur.