

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

v.

CHRISTOPHER R. VANISTENDAEL

Appellant

No. 1080 WDA 2016

Appeal from the PCRA Order June 23, 2016  
In the Court of Common Pleas of Venango County  
Criminal Division at No(s): CP-61-CR-0000197-2006

BEFORE: PANELLA, STABILE, JJ., and STEVENS, P.J.E.\*

DISSENTING STATEMENT BY STEVENS, P.J.E.: **FILED JULY 28, 2017**

While I agree that the prosecutor’s future dangerousness remark in closing—that “other people could be harmed if you don’t decide this right[]”—exceeded the scope of fair rebuttal, I disagree that the remark was so egregious as to form in the jurors’ minds a fixed bias and hostility towards Appellant which would prevent them from properly weighing the evidence and rendering a true verdict.

The passing remark represented a brief moment in a closing otherwise dedicated to addressing the evidence presented, and the evidence, itself, amply supported the Commonwealth’s case while containing no allusion to Appellant’s future dangerousness. Finally, the trial court instructed the jury

---

\* Former Justice specially assigned to the Superior Court.

that arguments of counsel are not part of the evidence and should not be considered as such. It is well-settled that jurors are presumed to follow instructions. Given this record, Appellant has not established that he was prejudiced by counsel's failure to object. Accordingly, I dissent.