

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE:	:	NO. 137
	:	
ORDER AMENDING	:	APPELLATE COURT RULES
RULE OF APPELLATE	:	
PROCEDURE 2521	:	
	:	DOCKET NO. 1
	:	

DISSENTING STATEMENT

MR. JUSTICE ZAPPALA

DECIDED: MARCH 26, 2002

I dissent from that portion of the amendment that requires the Supreme Court Prothonotary to provide notice of relevant Post Conviction Relief Act provisions to the capital defendant *himself*, rather than solely to defense counsel, because I believe it creates an unnecessary administrative burden.

The amendment directs the Prothonotary to include such a notice in its mailing of the copy of our Court's opinion affirming the judgment of a death sentence. Currently, however, the Prothonotary only sends a copy of our opinion to the defendant's counsel. Amending the rule to require personal notice raises legitimate concerns over locating the defendant and effectuating service. Also, because copies of the opinion are sent by first class mail, there will be no way of ensuring that the death row inmate in fact received the notice.

I believe a better approach would be to require the Prothonotary to send the notice of PCRA rights to the defendant's counsel and charge counsel with the duty of furnishing such information to the defendant. Personal notice to the defendant, himself, would only be necessary in cases where the defendant is proceeding *pro se*. This approach would

alleviate the administrative burden placed on the Prothonotary's Office while still ensuring that the defendant receives notice of his PCRA rights.

Mr. Justice Nigro joins in this dissenting statement.