

**IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 186 WAL 2012
	:	
Petitioner	:	Petition for Allowance of Appeal from the
	:	Order of the Superior Court
v.	:	
	:	
MARK NEWTON SPOTZ,	:	
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 28th day of November 2012, the Petition for Allowance of Appeal is **GRANTED**. The issues, as stated by petitioner are:

- (1) Whether the Superior Court erred when it exceeded its scope of review and rejected the trial court's credibility finding with respect to trial counsel's testimony at the PCRA hearing?
- (2) Whether the Superior Court erred in finding that the Respondent was unduly prejudiced by counsel's failure to object to the prosecution's references to Respondent's silence?
- (3) Whether the Superior Court erred when it failed to review trial counsel's actions/inactions with regard to the jury instructions and failed to make a determination as to whether counsel had a reasonable basis for his actions/inactions?
- (4) Whether the Superior Court erred in finding that the Respondent was unduly prejudiced by trial counsel's failure to object to the jury instruction as to justification with respect to defense of others and the duty to retreat?

Mr. Justice Eakin did not participate in the consideration or decision of this matter.