

[J-18-2019]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 755 CAP
	:	
Appellee	:	Appeal from the Orders entered on
	:	January 29, 2003, March 25, 2003
v.	:	and August 26, 2011 in the Court of
	:	Common Pleas, Philadelphia County,
	:	Criminal Division at CP-51-CR-
KEVIN PELZER,	:	1031752-1988, denying in part post
	:	conviction relief. (Nunc pro tunc
Appellant	:	appeal rights reinstated on June 1,
	:	2017.)
	:	
	:	SUBMITTED: February 4, 2019

CONCURRING STATEMENT

JUSTICE DOUGHERTY

FILED: November 26, 2019

I join the Court's decision to dismiss the instant appeal and remand to the Philadelphia Court of Common Pleas for sentencing pursuant to our previous mandate in *Commonwealth v. Daniels and Pelzer*, 104 A.3d 267, 319 (Pa. 2014). However, it is my position that, should Pelzer seek future relief in connection with his recusal-based due process claim that led to the instant *nunc pro tunc* appeal before this Court, the remedy, if deemed warranted by the trial court, must be limited in the manner described in my Opinion in Support of Affirmance in *Commonwealth v. Taylor*, __ A.3d __, 2019 WL 5782165 (Pa. filed Nov. 6, 2019) (Dougherty, J., Opinion in Support of Affirmance) (the only constitutionally available remedy where a petitioner successfully pleads and proves in a timely PCRA petition that a constitutional violation occurred during the appellate process is reinstatement of the *nunc pro tunc* right to seek reargument of the original appellate decision pursuant to Pa.R.A.P. 2543).

Justice Mundy joins this concurring statement.