

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

COMMONWEALTH OF PENNSYLVANIA,	:	No. 513 EAL 2007
	:	
Respondent	:	Petition for Allowance of Appeal from the
	:	Order of the Superior Court at 3507 EDA
v.	:	2005, dated June 18, 2007, affirming the
	:	Order of the Court of Common Pleas of
	:	Philadelphia County at CP-51-CR-
COREY BURRELL,	:	0900651-2000 and CP-51-CR-1006431-
	:	2000, dated November 18, 2005.
	:	
Petitioner	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 13<sup>th</sup> day of December 2007, the Petition for Allowance of Appeal is **GRANTED, LIMITED** to the issue set forth below. Allocatur is **DENIED** as to all remaining issues. The issue, rephrased for clarity, is:

Whether the Superior Court erred in concluding that the issue that counsel was ineffective in failing to present mental health records to the sentencing court was waived on the basis that the records were not included in the certified record on appeal where the Commonwealth and petitioner stipulated pursuant to Pa. R.A.P. 1926 that the reproduced record was the same as that presented to the PCRA court?

The Order of the Superior Court is **VACATED** and the case is **REMANDED** for merits consideration of this claim. The parties stipulated that certain family court and treatment records had been provided to the PCRA court and were the same records submitted as part of the reproduced record on appeal. This is sufficient under Pa.R.A.P. 1926 to preclude a finding of waiver based upon the absence of the records.