

[J-105-2001]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 230 CAP
	:	
Appellee	:	
	:	Appeal from the 5/6/98 Order of the Court
	:	of Common Pleas of Philadelphia County,
v.	:	Trial Division, Criminal Section, at Nos.
	:	2950-52, September Term, 1986, denying
	:	Appellant's Petition under the Post
ZACHARY WILSON,	:	Conviction Relief Act
	:	
Appellant	:	
	:	
	:	SUBMITTED: July 25, 2001
	:	
	:	

CONCURRING OPINION

MR. JUSTICE NIGRO

DECIDED: November 19, 2004

I agree with the majority that the PCRA court's order denying Appellant post-conviction relief should be affirmed. I write separately, however, to note my serious concern with the prosecutor's failure to disclose Edward Jackson's crimen falsi conviction to Appellant when, as the majority notes, a record reflecting that conviction was in the prosecutor's own file. Given this Court's clear pronouncement that the prosecutor's Brady obligation extends to exculpatory evidence contained in the files of police agencies, see Commonwealth v. Burke, 781 A.2d 1136, 1142 (Pa. 2001), there can be no doubt that Brady also requires the prosecutor to disclose such evidence in her own files. Of course, knowing what documents must be disclosed is necessarily predicated on knowing what is

in one's file in the first instance, and it is therefore disconcerting that the prosecutor in this capital case was unfamiliar with the contents of her own file.

That said, I agree with the majority that the Court is unable to decide whether the prosecutor's failure to disclose Jackson's conviction ultimately violated Brady here, as Appellant failed to include this issue in his PCRA petition and it is therefore not properly before the Court.