

[J-109-2006]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 56 WAP 2006
	:	
Appellant	:	Appeal from the Order of the Superior
	:	Court entered February 15, 2005, at No.
	:	260 WDA 2004, reversing the Order of the
v.	:	Court of Common Pleas of Allegheny
	:	County entered January 12, 2004, at No.
	:	CP-02-CR-0007097-1989.
SHELDON L. WEST,	:	
	:	
Appellee	:	868 A.2d 1267 (Pa. Super. 2005)
	:	
	:	ARGUED: September 11, 2006

CONCURRING OPINION

MR. JUSTICE EAKIN

DECIDED: DECEMBER 27, 2007

The majority brings to mind the due process claim, “you can’t execute me because you didn’t execute me soon enough,” which has not been well received, except by the Ninth Circuit. Habeas corpus relief may exist only where PCRA relief is not possible; not where PCRA claims have been exhausted. Coady v. Vaughn, 770 A.2d 287, 293 (Pa. 2001) (Castille, J., concurring). Here, appellee exhausted his direct appeal and PCRA efforts. He should not be afforded habeas relief on a colorable constitutional claim spilled over from a PCRA claim, which is no longer available. The PCRA is the exclusive means of obtaining collateral relief, 42 Pa.C.S. § 9542, and should remain so.