

[J-110-1997]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

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| COMMONWEALTH OF PENNSYLVANIA, | : | 18 Western District Appeal Docket 1997 |
| | : | |
| Appellee, | : | |
| | : | Appeal from the Order of the Superior |
| | : | Court entered on May 2, 1995, at No. |
| v. | : | 938PGH94, affirming the Order of the |
| | : | Court of Common Pleas of McKean |
| | : | County, Criminal Division, entered April |
| PHILLIP J. PERSICHINI, JR. | : | 25, 1994, at No. 124 Criminal 1992. |
| | : | |
| Appellant. | : | SUBMITTED: May 22, 1997 |

ORDER

PER CURIAM:

DECIDED: SEPTEMBER 30, 1999

The Court being evenly divided, the opinion of the Superior Court is **AFFIRMED**.

Mr. Justice Saylor did not participate in the consideration or decision of this case.

Mr. Justice Castille files an opinion in support of affirmance in which Madame Justice Newman joins and Mr. Justice Nigro concurs in the result.

Mr. Chief Justice Flaherty files an opinion in support of reversal in which Messrs. Justices Zappala and Cappy join.