

[J-117-2002]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 91 WAP 2001
	:	
Appellant	:	Appeal from the Order of the Superior
	:	Court entered December 5, 2000, at
	:	No1009WDA1999, vacating the Judgment
v.	:	of Sentence of the Court of Common
	:	Pleas of Westmoreland County, Criminal
	:	Division, entered June 4, 1999, at Nos.
GEORGE R. BELAK,	:	3698, 3699 C 1998, and remanding.
	:	
Appellee	:	ARGUED: September 9, 2002
	:	
COMMONWEALTH OF PENNSYLVANIA,	:	No. 92 WAP 2001
	:	
Appellee	:	Appeal from the Order of the Superior
	:	Court dated December 5, 2000, at
	:	No1009WDA1999, vacating the Judgment
v.	:	of Sentence of the Court of Common
	:	Pleas of Westmoreland County, Criminal
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	:	
Appellant	:	ARGUED: September 9, 2002

CONCURRING OPINION

MR. JUSTICE CASTILLE

DECIDED: JUNE 17, 2003

I join the Majority Opinion. The Majority correctly holds that the “three-strikes” provision, 42 Pa. C.S. § 9714(a)(2), does not violate a defendant’s Fourteenth Amendment right to due process under this Court’s holding in Commonwealth v. Butler, 760 A.2d 384 (Pa. 2000), because, unlike the “two-strikes” provision in subsection (a)(1), subsection

(a)(2) does not require a defendant to rebut a presumption that he is a “high risk dangerous offender.”

In so holding, the Majority recognizes the very point that was the subject of my Dissenting Statement in Commonwealth v. Eddings, 772 A.2d 956 (Pa. 2001), which Madame Justice Newman joined. As I noted in Eddings, the plain language of subsection (a)(2) commands that offenders who have been convicted of “two or more” separate crimes of violence receive a minimum of 25 years of total confinement, “notwithstanding any other provision of this title or other statute to the contrary.” See Pa. C.S. § 9714(a)(2). Unlike the two-strikes provision, subsection (a)(2) is unconditional: It contains no requirement of an additional finding of “high risk dangerous offender” for the mandatory sentence to apply.

Since the Court has come around to the view I espoused in Eddings, I join.