

[J-239-1999]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 202 Capital Appeal Docket
	:	
Appellee	:	Appeal from the Judgment of Sentence of
	:	Death entered by the Court of Common
	:	Pleas of Cumberland County (Hoffer, J.)
v.	:	dated June 18, 1996
	:	
	:	
MARK NEWTON SPOTZ,	:	
	:	ARGUED: November 15, 1999
Appellant	:	
	:	
	:	
	:	
	:	
	:	

CONCURRING OPINION

MR. JUSTICE NIGRO

DECIDED: October 20, 2000

I join the majority opinion but write separately only to clarify my position regarding Appellant's claim that he was entitled to a Simmons instruction at his penalty hearing. Under the current state of the law, I am compelled to agree with the majority that the trial court did not err in failing to issue a Simmons instruction in the instant case, as Appellant did not request such an instruction nor did the Commonwealth raise the issue of Appellant's future dangerousness. However, for the reasons more fully explained in my concurring opinion in Commonwealth v. Clark, 551 Pa. 258, 710 A.2d 31, 43-44 (1998), I continue to believe that the better approach would be to give a standardized Simmons instruction in all capital cases.