

[J-265-99]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

| | | |
|-------------------------------|---|---|
| COMMONWEALTH OF PENNSYLVANIA, | : | No. 211 CAPITAL APPEAL DOCKET |
| | : | |
| Appellee | : | |
| | : | Appeal from the Order entered on 12/4/97 |
| | : | in the Court of Common Pleas, |
| v. | : | Philadelphia County, Criminal Division at |
| | : | 2563-2565 May Term 1987 |
| | : | |
| CRAIG WILLIAMS, | : | |
| | : | |
| Appellant | : | Submitted: November 23, 1999 |

OPINION

MR. JUSTICE SAYLOR

DECIDED: October 19, 2001

This is an appeal from an order of the Court of Common Pleas of Philadelphia County dismissing a petition for post-conviction relief in this capital case. We vacate the post-conviction court's order and remand for further proceedings.

On April 3, 1987, Appellant Craig Williams ("Williams") shot and killed Gordon Russell, a pedestrian who was returning from a grocery store. In Williams' ensuing prosecution for first-degree murder and related offenses, the Commonwealth's theory of the case was that the bullet was a stray one that had been aimed at Erica Riggins, a woman who previously had fought with Jean Hargrove, Williams' pregnant girlfriend. In the guilt phase defense, trial counsel presented testimony from several witnesses who claimed that the fatal shot was fired by Ms. Riggins; however, the testimony of such witnesses was conflicting, manifested internal inconsistencies, and found little support in the physical evidence. At the penalty phase of trial, the parties stipulated to Williams'

three prior felony convictions. Based on such stipulation and the trial record, the Commonwealth proceeded upon the aggravating circumstances of a significant history of felony convictions involving use or threat of violence, 42 Pa.C.S. §9711(d)(9), and creation of grave risk to others, 42 Pa.C.S. §9711(d)(7). Williams offered testimony from three witnesses in mitigation: his mother, Jean Hargrove, and Christine Williams, a nurse who had cared for Williams as he recovered from a surgery. The jury found the grave risk aggravator and no mitigating circumstances and sentenced Williams to death, following which the trial court denied post-trial motions. Substitute counsel was appointed for purposes of perfecting an appeal.

On April 23, 1991, trial counsel committed suicide. Appellant alleges that this occurred on the day before he was to be indicted on charges of money laundering for a large narcotics ring.

On October 9, 1992, this Court affirmed Williams' conviction and sentence. See Commonwealth v. Williams, 532 Pa. 265, 615 A.2d 716 (1992).

On May 20, 1996, Williams filed a pro se petition under the Post Conviction Relief Act, 42 Pa.C.S. §§9541-9546 (the "PCRA"), in the court of common pleas.¹ Counsel was appointed in due course and filed an amended PCRA petition. The petition contained a lengthy recitation of facts designed to portray trial counsel as ineffective in failing to prepare adequately for both the guilt and penalty phases of trial. The petition asserted that trial counsel waived valid objections; called witnesses without previously having interviewed them; put forward a jumbled and inconsistent defense; failed to make arguments predicated upon the evidence in support of a lesser degree of

¹ Previously, Williams had sought federal habeas corpus relief with respect to the issues raised in the direct appeal, which was denied. See Williams v. Love, 1995 WL 303634 (E.D. Pa. May 17, 1995).

guilt; began assembling a penalty phase presentation on the eve of the guilt verdict; and put forward a truncated and inadequate presentation of mitigating circumstances to the sentencing jury. Williams offered to establish that trial counsel pressured Jean Hargrove and Erica Riggins to pay legal fees for Williams' defense, withheld legal services for reasons related to compensation, and labored under a conflict of interest by virtue of his acceptance of legal fees from actual and prospective witnesses. Further, Williams contended that trial counsel failed to develop substantial, available mitigating evidence in the form of circumstances surrounding the offense, including distress and confusion on the part of Williams concerning the altercation between Jean Hargrove and Erica Riggins; undeveloped family history; and attention deficit disorder, impulsiveness, and brain damage constituting an extreme mental or emotional disturbance. Additionally, in the amended petition, Williams asserted that the Commonwealth violated Pennsylvania Rule of Criminal Procedure 352 by failing to notify Williams in writing of the existence of aggravating circumstances; the trial court improperly instructed the jurors that they must unanimously find mitigating circumstances contrary to Mills v. Maryland, 486 U.S. 367, 108 Ct. 1860 (1988); trial counsel was ineffective for failing to seek a proper jury instruction in this regard; trial counsel was ineffective at voir dire in failing to ask venirepersons whether they viewed a first degree murder verdict as automatically requiring a sentence of death; and trial counsel was ineffective for failing to preserve issues related to the racial composition of the jury, see Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712 (1986). Williams alleged ineffectiveness on the part of appellate counsel with respect to the Mills and Batson issues, but did not make any other specific assertions in this regard in relation to any other issue, or any general allegation of ineffectiveness on the part of appellate counsel.

Finally, Williams sought leave of court to file supplemental pleadings, affidavits, and memoranda in support of his eligibility for post-conviction relief.

In response to the amended petition, the Commonwealth filed a motion to dismiss, asserting, inter alia, prejudicial delay in the assertion of the alleged conflict of interest on the part of trial counsel, particularly in view of trial counsel's death; a failure on Williams' part to proffer evidence by way of affidavit or otherwise which would establish such conflict; previous litigation of claims of trial counsel's ineffectiveness in the penalty phase of trial; the absence of an affidavit of an expert witness to support the claim of ineffectiveness in failing to present mental health evidence in mitigation; the validity of the jury instructions challenged under Mills; the absence of any requirement of notice of aggravating circumstances at the time of Williams' trial; the absence of any requirement for life qualification of venirepersons; and the trial court's acceptance of reasons offered by the district attorney for peremptory challenges exercised. The Commonwealth did not specifically challenge Williams' claims on the basis of waiver due to the absence of an assertion of ineffectiveness on the part of appellate counsel.

On November 13, 1997, the PCRA court conducted oral argument concerning the Commonwealth's motion to dismiss. In addition to appointed PCRA counsel, an attorney for the former Center for Legal Education, Advocacy and Defense Assistance ("CLEADA") appeared and asserted that he had been authorized to act as co-counsel for Williams; however, the PCRA court declined to recognize such representation. After argument, the PCRA court announced its intention to dismiss the petition and subsequently issued formal notice of such intention pursuant to Pennsylvania Rule of Criminal Procedure 1509(C)(1), identifying as the reason for dismissal that "[t]he issues raised in the PCRA Petition filed by your attorney are without merit."

Williams then filed a series of affidavits and documents under cover signed by PCRA counsel and counsel from CLEADA. The eight affiants included Williams' father, mother, brother, and sister; a childhood friend; Jean Hargrove; Erica Riggins; and Dr. Henry Dee, a licensed psychologist and neuropsychologist. The general tenor of the documents was in support of central averments of the amended petition. Several of the affidavits bolstered Williams' post-conviction description of the course of events surrounding the killing of Mr. Russell, emphasizing, in particular, that Williams was distraught and confused by the altercations between Hargrove and Riggins and set out at most to frighten Riggins by initiating the gunfire that resulted in Mr. Russell's death. Most of the affiants provided statements indicating that Williams was of good character but suffered from a traumatic childhood, aggravated by an alcoholic, abusive father. Various affiants described episodes involving head injuries to Williams and stated that Williams manifested persistent difficulties with distraction and control over his emotions. The affidavit and report of Dr. Dee indicated that Williams suffers from organic cerebral impairment and undermined intellectual and social functioning "of a long-standing nature," which was related to Williams' offense in terms of his capacity to appreciate the criminality of his conduct and mitigating factors involving major mental health illness. The affidavits of Jean Hargrove and Erica Riggins contain assertions that the affiants made substantial payments to trial counsel; that trial counsel failed to speak with witnesses about the case; and, in general, that trial counsel pursued a course of withholding legal services as a means to obtain compensation. In Ms. Riggins' affidavit, she also asserted that she appeared at the time of trial hoping to testify in support of the defense, but, at the direction of the assistant district attorney prosecuting the case, was restrained from entering the courtroom or approaching trial counsel. Most of the affiants indicated that they had not been contacted, interviewed at any length, and/or prepared

for trial testimony by trial counsel. The affiants generally expressed their willingness to testify fully to the contents of their affidavits at trial, had they been asked.

The PCRA court subsequently issued an order denying the amended petition, indicating that its disposition was accomplished after a review of the supplemental filings, although noting that the supplemental filing was by an attorney who was prohibited from entering his appearance.² No evidentiary hearing was provided. On December 31, 1997, PCRA counsel filed a notice of appeal. The PCRA court permitted PCRA counsel to withdraw, and counsel for CLEADA pursued the appeal by initially filing a statement of matters complained of on appeal setting forth the issues raised in the amended petition, as well as numerous others. The PCRA court then issued a written opinion reiterating the procedural history of the case and indicating:

The P.C.R.A. Court has adopted the reasoning set forth in the Commonwealth's Motion to Dismiss . . . as the reasons to support the denial of the P.C.R.A. Petition as amended. In the opinion of the P.C.R.A. Court, the Petition was properly dismissed for the foregoing reasons as outlined in the Commonwealth's Motion.

Williams filed a motion in this Court seeking, inter alia, a remand based upon "newly discovered evidence." The Commonwealth opposed such relief; however, following the issuance of Commonwealth v. Williams, 557 Pa. 207, 732 A.2d 1167 (1999), in which this Court disapproved of the PCRA court's practice of adopting the Commonwealth's motion to dismiss as its opinion in capital PCRA cases, the Commonwealth filed an "assent to request for remand to conduct evidentiary hearing," indicating that

[t]he Commonwealth is confident that none of defendant's appellant [sic] claims is meritorious. However, in light of the

² Although the supplemental filing listed both PCRA counsel and counsel for CLEADA, the signature on the document appears to be that of appointed PCRA counsel.

PCRA court's exclusive reliance on the Commonwealth's motion to dismiss, and this Court's recent opinion in Commonwealth v. Williams, encouraging PCRA courts to make credibility determinations, the Commonwealth believes that the proper course of action is a remand to the PCRA court for an evidentiary hearing. Although not all of defendant's claims involve the need for an evidentiary hearing, in light of the possibility that defendant may wish to modify, revise or eliminate some of the claims after the hearing, and the desire to avoid wasting this Court's time with piecemeal litigation, the entire case should be remanded to the PCRA court.

(citation omitted).

As both Williams and the Commonwealth agree, pursuant to Williams, 557 Pa. at 207, 732 A.2d at 1167, the appropriate course is to remand the present case for the preparation of an adequate opinion by the PCRA court. See also id. at 254, 732 A.2d at 1192-93 (Castille, J.)(emphasizing the PCRA courts' obligation to supply their independent reasoning for their decisions and positing that any review by this Court is premature until this occurs). See generally Commonwealth v. Basemore, 560 Pa. 258, 294-96, 744 A.2d 717, 738-39 (2000)(setting forth general guidance concerning the preparation of a PCRA court's opinion in the context of specific claims presented). The PCRA court will be authorized to conduct such hearings as may be necessary or appropriate to the completion of this task, guided by the framework established in Williams, 557 Pa. at 225-53, 732 A.2d at 1176-92.

While our recent decisions in Williams and Basemore focused upon the obligations of PCRA courts on review of a capital, post-conviction case, the pleadings in this case also raise questions concerning the performance of PCRA counsel which merit examination. As noted, in seeking post-conviction review, appointed counsel submitted a petition containing a series of lengthy factual and legal averments tied to a series of affidavits, none of which was specifically presented on direct appeal. Counsel did not, however, include an assertion of appellate counsel's ineffectiveness in failing to

develop such issues and facts; rather, the included averments concerning appellate counsel's effectiveness were limited to two discrete legal issues. Lacking such an assertion, waiver principles would generally operate to foreclose review of these averments, see 42 Pa.C.S. §§9543(a)(3), 9544(b), and the PCRA court's dismissal of these claims could be regarded as proper, assuming appropriate notice consistent with the provisions of Rule of Criminal Procedure 1509(C)(1).

In this respect, we note a significant distinction between our 1999 decision in Williams and the present case. In Williams, the same attorney served as trial and appellate counsel; as there was no intervening substitution of counsel, the post-conviction context was viewed as the appellant's first opportunity to raise claims of ineffective assistance on the part of trial counsel. See id. at 226-27 & n.6, 732 A.2d at 1177 & n.6. Here, however, substitute counsel was appointed for purposes of the direct appeal. It was therefore incumbent upon PCRA counsel to establish an appropriate framework for post-conviction review of claims not raised on direct appeal.

As noted in Williams, former Section 9543(a)(3)(iii) of the PCRA, 42 Pa.C.S. §9543(a)(3)(iii)(repealed), was frequently cited as a statutory source of authority permitting claims of ineffective assistance of counsel even in circumstances in which one or more post-verdict substitutions of counsel have occurred, where the petitioner also asserts the ineffectiveness of all prior counsel. See Williams, 557 Pa. at 226 n.6, 732 A.2d at 1177 n.6. Although the General Assembly has repealed Section 9543(a)(3)(iii), this Court has continued to review claims of ineffectiveness which are "layered" through a sufficient assertion of ineffectiveness of all prior counsel. See, e.g., Commonwealth v. Marrero, 561 Pa. 100, 103-04, 748 A.2d 202, 203-04 (2000). While we have not specifically undertaken to explain the basis for such review, we note that the substantive provisions of the PCRA are couched in terms of the reliability of the

verdict, see, e.g., 42 Pa.C.S. §9543(a)(2)(ii), thus also implicating the process of direct review, and we have otherwise harmonized the PCRA and traditional habeas corpus review where necessary to implement constitutional guarantees while giving the greatest effect possible to the legislative intent that the PCRA constitute the “sole means” for obtaining collateral relief from a conviction or sentence, 42 Pa.C.S. §9542. See Commonwealth v. Chester, 557 Pa. 358, 375-76, 733 A.2d 1242, 1251 (1999); see also Commonwealth v. Lantzy, 558 Pa. 214, 222-24, 736 A.2d 564, 569-70 (1999).

These and other of our recent decisions reflect, in large measure, an assessment of the balance struck by the General Assembly between the efficient administration of criminal laws and finality in the adjudicative process, and the ultimate assurance that the conviction and sentence were reliably imposed consistent with the defendant’s constitutional rights.³ Thus, on the one hand, we have recently rejected the argument that certain language from the PCRA bars the assertion of claims of error alleging

³ These are the same interests balanced by courts in the application of judicial error preservation rules. On the one hand, as stated by one commentator:

Rules such as these serve critical purposes: the provision of adequate notice to adversaries (and the court) of the matters that are at issue; the allocation of decisions to the appropriate body; the promotion of focused consideration of particular questions at different times, when the pertinent evidence and argumentation can be mustered; and the avoidance of wasteful proceedings by requiring prompt consideration of issues upon whose resolution further matters (or the continuation of the proceeding at all) depend.

Daniel J. Meltzer, State Court Forfeitures of Federal Rights, HARV. L. REV. 1128, 1134-35 (1986). Such concerns are weighed against the provision of merits review as a means to ensure the integrity of the process and conformance with constitutional precepts. See generally Hormel v. Helvering, 312 U.S. 552, 557, 61 S. Ct. 719, 721 (1941)(noting that “[o]rderly rules of procedure do not require sacrifice of the rules of fundamental justice”).

constitutional violation and/or ineffective assistance of counsel relating to the penalty phase of a capital trial, see Chester, 557 Pa. at 375-76, 733 A.2d at 1251, aligned the prejudice standard of the PCRA with the constitutional standard of Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984), see Commonwealth v. Kimball, 555 Pa. 299, 309, 724 A.2d 326, 331 (1999), confirmed a capital petitioner's rule-based entitlement to effective assistance of PCRA counsel on a first petition, see Commonwealth v. Priovolos, 552 Pa. 364, 368, 715 A.2d 420, 422 (1999), and enforced the PCRA courts' constitutional, statutory, and rule-based obligations with respect to the conduct of post-conviction hearings and the preparation of written opinions, see Williams, 557 Pa. at 224-25, 732 A.2d at 1176. On the other hand, we have upheld against constitutional challenge the PCRA's one-year filing limitation for PCRA petitions, see Commonwealth v. Peterkin, 554 Pa. 547, 722 A.2d 638 (1998), and determined that the doctrine of relaxed waiver should no longer apply in the post-conviction setting, see Commonwealth v. Albrecht, 554 Pa. 31, 44-46, 720 A.2d 693, 700 (1998).

The practical effect of the legislative scheme as we have interpreted it is to channel claims for post-conviction relief through the PCRA, to ensure that the post-conviction review process remains open for review of certain fundamental claims implicating the reliability of the conviction and/or sentence, but to limit this opportunity in most cases to a single, counseled petition. The nature of this scheme places substantial responsibility upon PCRA counsel to properly identify claims implicating a right to relief and to present them in a form which would invoke merits review. Indeed, particularly in light of the time limitation now imposed under the PCRA, a substantial default by post-conviction counsel may ultimately foreclose merits review of a claim.

Certainly it is not unique to the Pennsylvania post-conviction context that counsel's defaults may impact upon the nature of review afforded to a client's claims.

For example, the decision of the United States Supreme Court in Strickland, 466 U.S. at 668, 104 S. Ct. at 2052, firmly establishes that one seeking relief from a conviction or sentence based upon a claim of ineffective assistance of counsel bears the burden of establishing prejudice, see id. at 692, 104 S. Ct. at 2067; whereas, trial errors which have been adequately preserved and thus need not be presented through a claim of ineffective assistance would generally implicate a burden on the part of the government to establish that the errors were harmless. See generally Commonwealth v. Howard, 538 Pa. 86, 99-101, 645 A.2d 1300, 1307-08 (1994)(highlighting the distinction between the harmless error and prejudice standards).⁴ While this Court has in special circumstances acted to ameliorate the adverse effect of PCRA counsel's deficient performance, see, e.g., Commonwealth v. Spence, 561 Pa. 344, 750 A.2d 303 (2000)(remanding, per curiam, with directions to permit the filing of an amended PCRA petition by substitute post-conviction counsel); Commonwealth v. Saranchak, 559 Pa. 111, 739 A.2d 162 (1999)(same), these cases represent the exception rather than the rule, as our general practice is to review claims as presented according to our established standards of review.

Concerning the manner in which claims of appellate counsel's ineffectiveness are to be developed, it should not escape the notice of post-conviction counsel that this Court was divided in Marrero, 561 Pa. at 100, 748 A.2d at 202. The majority found that a claim of ineffective assistance on the part of appellate counsel that was asserted generally and in a summary fashion in the appellant's brief in the statement of questions

⁴ Although the justification for this paradigm is not specifically articulated, Strickland strongly emphasizes the central constitutional role served by trial counsel and the corresponding need for deference in the review of counsel's performance. See Strickland, 466 U.S. at 689, 104 S. Ct. at 2065 (stating that "a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance").

involved was sufficient to overcome an asserted waiver of the claim. See Marrero, 561 Pa. at 103-04 n.1, 748 A.2d at 203-04 n.1 (stating that “a common sense reading of the plain language . . . can only result in the reasonable conclusion that [the] [a]ppellant is asserting appellate counsel’s ineffectiveness for failing to assert five claims of trial counsel’s ineffectiveness”). Three Justices, however, took the position that, given the manner of its framing, including the lack of elaboration and specificity, the claim was waived, see Marrero, 561 Pa. at 104-06, 748 A.2d at 204-05 (Nigro, J., concurring); accordingly, those Justices would not have afforded merits review on the pertinent claims.

In light of the Marrero opinions, it is apparent that competent PCRA counsel must, in pleadings and briefs, undertake to develop, to the extent possible, the nature of the claim asserted with respect to each individual facet of a layered ineffectiveness claim, including that which relates to appellate counsel. While a majority of this Court would presently continue to allow a degree of latitude in this regard, the distinction between sufficient and insufficient claims will likely undergo further development over time in the context of specific cases;⁵ therefore, to ensure a petitioner’s entitlement to

⁵ In his concurring opinion, Mr. Justice Castille criticizes affordance of any latitude in terms of the detail in description of appellate counsel’s ineffectiveness in the post-conviction setting. We recognize, however, that the difficulty facing post-conviction counsel is that claims of appellate counsel’s ineffectiveness are generally derivative claims, predicated on the failure to raise and preserve an asserted instance of trial error or ineffectiveness on the part of trial counsel. Therefore, a primary avenue of proving appellate counsel’s lack of stewardship frequently lies in establishing the strength and obviousness of the underlying claim. Thus, it is not surprising that post-conviction appellate briefs often devote primary focus to development of the underlying claim. This may be particularly the case where the petitioner has not been afforded a post-conviction hearing and thus has not had the opportunity to develop the claim of appellate counsel’s ineffectiveness by exploring on the record counsel’s reasons for failing to raise and preserve the underlying claim.

(continued...)

merits review, it is critical that post-conviction counsel avoid arguments on the fringes of appropriate presentation.

Regardless of the ultimate construct devised to assess arguments concerning appellate counsel's effectiveness, all Justices are aligned concerning the fundamental proposition that the PCRA requires a petitioner to plead and prove his claim, and, therefore, the dismissal of claims is appropriate where the pleadings are insufficient to state a claim for post-conviction relief. See Pa.R.Crim.P. 1509(C)(providing for dismissal of a capital PCRA petition where there are no material facts at issue, the petitioner is not entitled to relief as a matter of law, and no purpose would be served by any further proceeding). In the present case, since Williams' amended petition does not raise a challenge to the adequacy of his appellate counsel's performance in relation to primary claims, those claims that were not raised at the earliest opportunity (on direct appeal) would be deemed waived, see 42 Pa.C.S. §9544, and the amended petition was thus vulnerable to dismissal for failure to state a claim in relation to such issues.

(...continued)

Mr. Justice Castille also characterizes our discussion, above, as equivocal. It is merely our intention here, however, to caution capital litigants that they continue to face a divided Court concerning the level of detail required in pleadings and briefs. The view that this Court should deny review based solely upon deficiencies in post-conviction appellate briefs, although the briefs may themselves manifest ineffective assistance on the part of appellate post-conviction counsel for failing even to invoke the Court's review, is amply set forth in Justice Castille's concurring opinion.

Finally, we make no suggestion here that there should be a relaxation of the substantive Sixth Amendment standard. What we are addressing here is what is required to invoke substantive review. This includes, in the first instance, a post-conviction hearing (constituting the opportunity for the petitioner to prove his post-conviction claims), and, on appellate review, examination of the pleadings and proofs by this Court to determine whether a Sixth Amendment claim is established on the post-conviction record (or, where such a claim has been dismissed, whether the claim was adequately asserted and all procedural requirements for dismissal met, see infra).

Nevertheless, having emphasized counsel's critical role in the post-conviction process, we conclude that affirmance of the PCRA court's disposition of the present petition is not appropriate in view of the absence of an adequate opinion, and as our rules provide one additional safeguard. Pursuant to Rule of Criminal Procedure 1509(C)(1), a PCRA court is obliged to provide a capital defendant with pre-dismissal notice of its reasons for dismissal, see Pa.R.Crim.P. 1509(C)(1), and the opportunity is thus provided for a defendant to seek leave to amend to cure any material defect in the petition, see Pa.R.Crim.P. 1509(C)(3)(b). See generally Pa.R.Crim.P. 1505(b) (prescribing that, when a petition is defective as originally filed, a PCRA court "shall order amendment of the petition, indicate the nature of the defects, and specify the time within which an amended petition shall be filed"); Pa.R.Crim.P. 1505(a) (providing that amendment of post-conviction petitions may be granted by a PCRA court "at any time," and "shall be freely allowed to achieve substantial justice").⁶ Particularly in light of the legislative scheme channeling all forms of claims through the PCRA and limiting the opportunity for seeking post-conviction review to the one-year period after the judgment of sentence becomes final, see 42 Pa.C.S. §9545, both PCRA courts and counsel must pay careful attention to their respective obligations under the rules. Where PCRA courts discern the potential for amendment, it is their obligation under Rule 1505(b) to specifically allow the opportunity; where dismissal is deemed the appropriate course, the court must obviously provide sufficiently specific reasons for the disposition such that the potential for amendment may be reasonably evaluated by counsel.⁷ Upon

⁶ As of April 1, 2001, these rules are now repositied in the 900 series of the renumbered Rules of Criminal Procedure.

⁷ The requirement for PCRA courts to direct amendments contained in Rule 1505(b) applies to petitions "as originally filed"; therefore, this particular subdivision, by its terms, would not be strictly applicable to the dismissal of a petition which already has been (continued...)

receipt of either form of notice, counsel must undertake a careful review of the pleadings and other materials submitted to ensure that a sufficient offer has been made to warrant merits review. These procedures are afforded not only to protect the integrity of the process and the rights of a capital petitioner in the common pleas setting, but also to provide the essential predicate for appellate review of the post-conviction proceedings by this Court.

Here, the PCRA court did not identify the absence of any allegation of ineffective assistance on the part of appellate counsel as a reason for dismissal either in its pre-dismissal notice or in its opinion by incorporation of the Commonwealth's motion to dismiss. Therefore, the dismissal simply cannot be affirmed on such basis. Rather, the case will be returned to the PCRA court for disposition in accordance with our rules and decisional law.

The order of the PCRA court is vacated and the matter is remanded for further proceedings consistent with this opinion. Jurisdiction is relinquished.

Mr. Justice Zappala files a concurring opinion.

Mr. Justice Cappy files a concurring opinion.

Mr. Justice Castille files a concurring opinion.

Mr. Justice Nigro files a concurring opinion.

(...continued)

amended, as was the case here. However, the requirement for the PCRA court to provide reasons is embodied both in Rule 1505(b) and Rule 1509, the latter of which was directly applicable to the disposition of Williams' petition.