

[J-64-2000]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 258 Capital Appeal Docket
	:	
Appellee	:	Appeal from the Judgment of Sentence
	:	entered February 16, 1999 in the Court of
v.	:	Common Pleas, Berks County, Criminal
	:	Division at No. 2194-89.
	:	
	:	
DAVID ALLEN SATTAZAHN,	:	
	:	ARGUED: May 1, 2000
Appellant	:	
	:	
	:	
	:	
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	:	

DISSENTING OPINION

MR. JUSTICE SAYLOR

DECIDED: November 27, 2000

As the majority observes, precedent at both the federal and state levels would allow a capital defendant who has been sentenced to life imprisonment as the result of a deadlocked jury to be exposed to the death penalty upon retrial. Nevertheless, I am troubled by the chilling effect that such a rule places upon the right of appeal guaranteed by our state Constitution. In my view, the ends of justice would be better served if, in our supervisory role respecting the administration of capital cases in Pennsylvania, we were to require that such a defendant, if convicted upon retrial, must receive the life sentence originally imposed. Such a requirement would be consistent with the legislative intent that if even a single juror decides against the death penalty, the penalty will not be imposed. Accordingly, I respectfully dissent.

Mr. Chief Justice Flaherty and Mr. Justice Nigro join this dissenting opinion.