

[J-74-1999]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 220 Capital Appeal Docket
	:	
Appellee	:	Appeal from the Judgment of Sentence of
	:	the Court of Common Pleas of
	:	Philadelphia County, Criminal Division,
v.	:	dated February 12, 1998, at No. 97-04-
	:	0013
	:	
RICARDO NATIVIDAD,	:	
	:	
Appellant	:	ARGUED: October 18, 1999

CONCURRING AND DISSENTING OPINION

MR. JUSTICE ZAPPALA

DECIDED: June 25, 2001

I agree that Appellant's claims of error regarding the guilt phase of this capital case do not entitle him to relief. I disagree, however, with the affirmance of Appellant's sentence of death because victim impact evidence was unconstitutionally presented in the penalty phase of Appellant's trial. For the reasons set forth in my dissenting opinion in Commonwealth v. Means, 54 E.D. Appeal Docket 1997, I would reverse Appellant's sentence of death and remand to the common pleas court for a new penalty hearing.

Mr. Chief Justice Flaherty joins this concurring and dissenting opinion.