

**[J-83-2001]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 305 CAP
	:	
Appellee	:	On appeal from the orders of the
	:	Washington County Court of Common
	:	Pleas, No. 555(a)(b) 1986, dated April 18,
v.	:	2000, and May 12, 2000, denying post-
	:	conviction relief
	:	
THOMAS J. GORBY,	:	
	:	
Appellant	:	SUBMITTED: May 3, 2001

**CONCURRING OPINION**

**MR. JUSTICE SAYLOR**

**DECIDED: December 31, 2001**

Although I join the portion of the opinion announcing the judgment of the Court remanding the case to the PCRA court for an evidentiary hearing respecting Appellant's claim that trial counsel was ineffective in failing to investigate and present certain mitigating evidence during the penalty phase, I depart from the disposition of Appellant's guilt phase claims. The lead Justices decline to address such issues, concluding that they are inadequately developed within Appellant's brief. While I acknowledge that Appellant's brief is deficient in this respect, the Court has only recently addressed counsel's obligation to develop, to the extent possible, the nature of the claim asserted with respect to each individual facet of ineffective assistance of counsel. See Commonwealth v. Williams, \_\_\_ Pa. \_\_\_, \_\_\_, 782 A.2d 517, 525 (2001). Particularly, since Appellant's brief in this case was filed before the decision in Williams, I would not treat the failure to more fully develop

the ineffectiveness claims as fatal to appellate review. In my view, however, Appellant's guilt phase claims would not entitle him to relief, particularly in light of trial counsel's testimony during the post-conviction hearing that Appellant admitted to having committed the crime, which, obviously, limited the avenues for presentation of the defense case. Accordingly, I concur in the result with respect to those claims.