

**[J-96-2000]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 264 CAP
	:	
Appellee	:	Appeal from the Order of the Court of
	:	Common Pleas of Philadelphia County
	:	dated May 11, 1998, denying Appellant's
v.	:	Amended Petition for Post-Conviction
	:	Relief
	:	
LARRY RUSH,	:	
	:	
Appellant	:	SUBMITTED: April 13, 2000

**CONCURRING OPINION**

**MR. JUSTICE SAYLOR**

**DECIDED: December 18, 2003**

I agree with the majority's decision to remand for compliance with the Pennsylvania Rules of Criminal Procedure governing capital, post-conviction proceedings. See generally Commonwealth v. Williams, 566 Pa. 553, 568-69, 782 A.2d 517, 526-27 (2001). It should not go without saying, however, that, by limiting the scope of potential amendments on remand, the majority crafts a narrower rule than that which was implemented in Williams.<sup>1</sup> For my part, I remain of the view that consistent application of the criminal procedural rules

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<sup>1</sup> Williams' approach was merely to restore the petitioner to the posture that he was in immediately before the unwarranted dismissal, namely, with his entitlement to adequate pre-dismissal notice intact, and the opportunity to amend limited only by the sound judgment of the PCRA court, exercised in light of the liberal amendment policy. See generally id. (citing Pa.R.Crim.P. 1509(C)(1) (now 909(B)(2)(b)), 1509(C)(3)(b) (now 909(B)(2)(c)(ii)), and 1505(a) (now 905(a))).

as developed in Williams would further the interests of justice both by identifying ineffective approaches by counsel to post-conviction litigation at the earliest stage, and providing the fullest opportunity for a post-conviction petitioner's one instance of state collateral review to be a meaningful one.

Mr. Justice Nigro joins this concurring opinion.