

**[J-30-98]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

|                               |   |   |
|-------------------------------|---|---|
| COMMONWEALTH OF PENNSYLVANIA, | : | 120 Capital Appeal Docket                 |
|                               | : |   |
| Appellee                      | : | Appeal from the Judgment of Sentence      |
|                               | : | entered September 6, 1995 in the Court of |
|                               | : | Common Pleas of Lackawanna County         |
| v.                            | : |   |
|                               | : |   |
| RICHARD YOUNG,                | : | ARGUED: February 4, 1998                  |
|                               | : |   |
| Appellant                     | : |   |
|                               | : |   |
|                               | : |   |
|                               | : |   |
|                               | : |   |

**CONCURRING OPINION**

**MR. JUSTICE CAPPY**

**DECIDED: January 22, 1999**

I concur in the result reached by the majority in the above-captioned case. I write separately in recognition that I have taken a different position than the majority advocates herein regarding the issue of victim impact testimony in the penalty phase of a capital case. However, I recognize that my position, as reflected in Commonwealth v. Fisher, 681 A.2d130 (Pa. 1996) (Cappy, J. concurring); and Commonwealth v. McNeil, 679 A.2d 1253 (Pa. 1996) (Cappy, J. dissenting), does not reflect the position of the majority of this court. In recognition of the rule of *stare decisis*, I join in the result reached by the majority in this case.