

[J-100-1999]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 169 Capital Appeal Docket
	:	
Appellee	:	Appeal from the Order of the Court of
	:	Common Pleas of Philadelphia County,
v.	:	(Latrone, J.) dated July 15, 1997, at Nos.
	:	2610-2612 of the January term of 1984.
	:	
	:	
CRAIG MURPHY,	:	
	:	SUBMITTED: May 19, 1999
Appellant	:	
	:	

CONCURRING OPINION

MR. JUSTICE NIGRO

DECIDED: October 28, 1999

I join in the majority opinion, but write separately to comment on Appellant's claim concerning the trial court's charge to the jury on the meaning of "reasonable doubt". As noted by the majority, the trial court informed the jury that all they could do was determine what "probably happened". Like the majority, I appreciate the fact that the trial court was attempting to explain to the jury that because they were not actually present during the commission of the crime, they could not know with absolute certainty exactly what happened. However, I cannot condone any language in a jury charge that suggests to the jury that they need not find the defendant guilty beyond a reasonable doubt in order to convict him of the crimes charged. By injecting language such as "probably happened" into a jury charge on the meaning of "reasonable doubt", a trial court necessarily risks diluting the "beyond a reasonable doubt" standard. Nevertheless, because I agree with the majority that the trial court's charge in the instant case, as a whole, adequately instructed

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the jury on the meaning of “reasonable doubt”, I agree that the Appellant’s ineffectiveness claim does not entitle him to relief.