

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

ROD MATTHEWS

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 415 EDA 2013

Appeal from the Judgment of Sentence September 21, 2012
In the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0009582-2010

BEFORE: PANELLA, J., OLSON, J., and FITZGERALD, J.*

DISSENTING STATEMENT BY FITZGERALD, J.: **FILED MAY 26, 2015**

The majority has astutely considered Appellant's **Brady**¹ claim based on the nondisclosure of the arresting officers' statements to internal affairs. I write separately, however, because I am of the view that Appellant established a **Brady** violation. Accordingly, rather than remand for a further hearing on the materiality of the officers' statements and the prejudice resulting from the Commonwealth's failure to disclose, I would vacate the judgment of sentence and remand for a new trial. Therefore, I respectfully dissent.

* Former Justice specially assigned to the Superior Court.

¹ **Brady v. Maryland**, 373 U.S. 83 (1963).