[MO: Baer, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	: No. 694 CAP
	:
Appellant	: Appeal from the Order entered on
	: 12/30/2013 in the Court of Common Pleas,
	: Criminal Division of Philadelphia County at
v.	: Nos. CP-51-CR-0417523-1992,
	: CP-51-CR-0417792-1992 and
	: CP-51-CR-0418063-1992
CHRISTOPHER WILLIAMS,	:
	:
Appellee	:

CONCURRING OPINION

MR. CHIEF JUSTICE CASTILLE **FILED: July 21, 2014**

I join the Majority Opinion with the single exception of its characterization of appellee's position -- that we should further delay this capital appeal and first inquire into the specific reason why the clerk's office below assumed a power that Williams himself concedes the clerk did not have -- as simply "meritless." Majority Slip Op. at 12. The position, which is offered by the federally-financed Federal Community Defender's Office ("FCDO"), in fact is frivolous, and may warrant sanctions.

The important corrective issue we address -- to remind ministerial officers that they are indeed purely ministerial officers -- was not raised *sua sponte*, but arose because the FCDO sought to nullify the Commonwealth's appeal through a motion to quash, filed twelve days after the Commonwealth's notice of appeal. The Court then directed briefing on the preliminary issue the FCDO raised, giving each side thirty days. The

FCDO's response was to request a thirty day extension of time to brief an issue the FCDO not only raised itself, but posed as certain, declaring that "this appeal must be quashed." Motion to Quash Appellant/Commonwealth Appeal at 4. The Court denied the extension, and when put to defend its motion on the merits, as the Majority notes, the FCDO effectively conceded the legal issue in an untimely "letter brief" it eventually filed. See Letter Brief of FCDO, dated May 13, 2014 at 3. The Commonwealth responded two days later. Notably, rather than confessing its error (or tactic), and withdrawing its motion to quash, the FCDO's letter brief sought instead to delay the matter further, claiming that we should inquire into factual irrelevancies.

In short, the FCDO compounded its ethical lapse in filing a frivolous motion by failing to take the proper measures once its position was exposed, and instead seeking to further delay the appeal. Even aside from the ongoing ethical questions attendant to **any** activity by the FCDO in state capital matters, the position taken here warrants exposure and possible sanction. I would also direct the Prothonotary not to entertain briefing extension requests from the FCDO in this appeal, which it has already delayed for frivolous reasons.