

**[J-66-2013] [MO: Castille, C.J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 40 MAP 2010
	:	
Appellant	:	Appeal from Order of the Superior Court
	:	entered 07-15-2009 at No. 932 MDA 2008
	:	which Remanded the PCRA Order of
v.	:	Centre County Court of Common Pleas,
	:	Criminal Division, entered 05-16-2008 at
	:	No. CP-14-CR-0002169-2005.
JUSTIN DAVID HOLMES,	:	
	:	
Appellee	:	SUBMITTED: October 26, 2010
	:	RESUBMITTED: August 13, 2013

CONCURRING OPINION

MR. JUSTICE EAKIN

DECIDED: October 30, 2013

I agree with the majority’s holding: trial courts have the discretion to entertain ineffectiveness claims in post-trial proceedings that are resolvable and meritorious from the apparent record; likewise, they may hear non-record-based ineffectiveness claims if there is good cause to do so. I do not agree, however, that consideration under the latter “good cause” exception must include waiver of all future collateral review. Rather, I would hold this to be issue-specific; consideration of discrete issues raised on direct review precludes collateral review of those issues only. Once raised and addressed, such issues can no longer serve as the basis for collateral relief, whether they deal with trial counsel’s services or appellate counsel’s performance in litigating the issue.

I emphasize that this position would simply allow trial courts discretion to review discrete, determinable ineffectiveness claims on post-verdict motions in cases where such review promotes efficiency and judicial economy; it is not an endorsement of this

practice as the preferred method of disposition of ineffectiveness claims, particularly prolix claims which are generally best left until collateral review, as noted in Commonwealth v. Grant, 813 A.2d 726 (Pa. 2002).

Mr. Justice McCaffery joins this concurring opinion.