

[J-91-2015][M.O. - Wecht, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 708 CAP
	:	
Appellee	:	Appeal from the Order entered on
	:	6/22/15 in the Court of Common Pleas,
	:	Bucks County, Criminal Division at No.
v.	:	CP-09-CR-0006917-2005
	:	
	:	
ROBERT ANTHONY FLOR,	:	
	:	
Appellant	:	SUBMITTED: January 20, 2016

CONCURRING OPINION

JUSTICE DOUGHERTY

DECIDED: April 25, 2016

I join the Majority Opinion with the exception of its specific mandate: “We direct the PCRA court on remand to permit PCRA counsel the opportunity to determine precisely what portions of trial counsel’s file remain privileged in light of Flor’s claims.” See Majority Opinion, slip op. at 20. I agree entirely with the substance of the concurrence of the Chief Justice and believe our mandate, at a minimum, must be adjusted along those lines. We cannot lose sight of the incentive to be less than forthcoming in capital matters, nor of the incentive to disputation and delay.¹ PCRA

¹ It appears PCRA discovery disputes have led to significant delay in a number of capital cases, requiring resolution by this Court. See, e.g., *Commonwealth v. Williams*, 86 A.3d 771 (Pa. 2014); *Commonwealth v. Harris*, 32 A.3d 243 (Pa. 2011); (...continued)

courts need to take a firm hand. Indeed, left to my own devices, I would prefer we direct all such disputes in capital matters be subject to *in camera* review by the PCRA court.

Justice Baer joins this Concurring Opinion.

(continued...)

Commonwealth v. Dennis, 859 A.2d 1270 (Pa. 2004); *Commonwealth v. Tilley*, 780 A.2d 649 (Pa. 2001).