

**[J-44-2021] [MO: Todd, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 37 EAP 2020
	:	
Appellee	:	Appeal from the Judgment of
	:	Superior Court entered on June 22,
v.	:	2020 at No. 364 EDA 2019 affirming
	:	the Order entered on January 16,
	:	2019 in the Court of Common Pleas,
AARON BRADLEY,	:	Philadelphia County, Criminal
	:	Division, at No. CP-51-CR-0010497-
Appellant	:	2012.
	:	
	:	SUBMITTED: April 7, 2021

DISSENTING OPINION

JUSTICE MUNDY

DECIDED: October 20, 2021

I fully recognize the majority's desire to rework a rule that all parties acknowledge is inadequate. However, I would instead refer this matter to our rules committees for the creation of a formal, rule-based mechanism for defendants to raise and preserve claims of ineffective assistance of PCRA counsel.

A formal mechanism would aid the bench and bar in consistently and fairly adjudicating defendants' claims of PCRA counsel ineffectiveness, while also comports with our own issue preservation rules and the legislature's intent to ensure finality of post-conviction claims. The rules committees also have more flexibility in their rulemaking and receive input from all impacted parties along with a public notice and comment process. Therefore, I think formal rulemaking through our committees is the best solution to the problem we face, as it could bring to light issues our Court may overlook and also work around issues we have historically been unable to answer from the bench.