

**[J-51-2019] [MO: Saylor, C.J.]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 37 EAP 2018
	:	
Appellee	:	Appeal from the Judgment of Superior
	:	Court entered on 06/18/2018 at No.
	:	1193 EDA 2016 affirming the
v.	:	Judgment of Sentence entered on
	:	04/15/2016 in the Court of Common
	:	Pleas, Criminal Division, Philadelphia
SCOTT BISHOP,	:	County at No. CP-51-CR-0003894-
	:	2015
	:	
Appellant	:	ARGUED: May 16, 2019

CONCURRING OPINION

JUSTICE DONOHUE

DECIDED: September 26, 2019

I join in the Majority opinion, as I have no fundamental disagreement with the issue preservation rule espoused by the Majority therein. I write separately to comment on footnote three in the Majority opinion. In my view, the matter of proper notification of potential claims of waiver should be directed to our appellate rules committee for study. Any appellee that intends to assert a waiver defense with respect to any issue presented for review in a petition for allowance of appeal, see Rule 1115(3), should be required to file an answer to said petition notifying this Court of its intention to assert such a defense. An appellee failing to comply with this requirement would then be precluded from asserting the defense in any subsequent filings with this Court in the case then at bar. Where an appellee provides the notice as required, it would remain within this Court's discretion to grant allocatur and decide the issue on its substantive merits. It is a

tremendous waste of our judicial resources and those of the parties, for this Court to grant allowance of appeal, require briefing, and prepare for and participate in oral argument, only then to resort to waiver thereby precluding the decision of an issue we deemed worthy of our review on its substantive merit.