

**[J-114-2020][M.O. – Mundy, J.]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**WESTERN DISTRICT**

|                               |   |   |
|-------------------------------|---|---|
| COMMONWEALTH OF PENNSYLVANIA, | : | No. 2 WAP 2020                            |
|                               | : |   |
| Appellee                      | : | Appeal from the Order of the Superior     |
|                               | : | Court entered 4/17/19 at No. 998 WDA      |
|                               | : | 2018, affirming the order of the Court of |
| v.                            | : | Common Pleas of Venango County            |
|                               | : | entered 6/19/18 at Nos. CP-61-CR-         |
|                               | : | 0000498-2013 and CP-61-CR-0000688-        |
|                               | : | 2009                                      |
| JAMES PAUL FINNECY,           | : |   |
|                               | : |   |
| Appellant                     | : | SUBMITTED: November 17, 2020              |

**CONCURRING OPINION**

**JUSTICE SAYLOR**

**DECIDED: APRIL 29, 2021**

I join the majority opinion and write only to note my misgivings about its determination that Appellant’s claim relates to sentence illegality for waiver purposes based on a generalized premise that the sentencing court lacked the authority to impose it. See Majority Opinion, *slip op.* at 12. Some of my concerns with this Court’s expanding definition of sentence illegality (for waiver purposes) are spelled out in my responsive opinion in *Commonwealth v. Moore*, \_\_\_ Pa. \_\_\_, \_\_\_ A.3d \_\_\_, 2021 WL 1133063 (March 25, 2021); see *id.* at \_\_\_, \_\_\_ A.3d at \_\_\_, 2021 WL 1133063 at \*7-9 (Saylor, C.J., concurring); see also *Commonwealth v. Foster*, 609 Pa. 502, 539-41, 17 A.3d 332, 355-56 (2011) (Saylor, J., concurring), and I view this case as embodying one more such expansion. With that said, the analysis in *Moore* with which I differed garnered majority support and, as such, it is now binding precedent. Moreover,

although *Moore* involved a facial constitutional challenge, whereas the present case entails an as-applied challenge based on a claim of incorrect statutory interpretation, this, in my view, is not a material distinction insofar as the authority-based rationale of *Moore* is concerned. Accordingly, as I am bound by the majority view in *Moore* – and as I agree with the present majority’s substantive reading of the Recidivism Risk Reduction Act – I join the majority opinion.