

**[J-16-2021][M.O. – Baer, C.J.]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 56 MAP 2020
	:	
Appellee	:	Appeal from the Judgment of Superior
	:	Court dated 2/24/20 at No. 3339 EDA
	:	2018 affirming the PCRA Order of the
v.	:	Montgomery County Court of Common
	:	Pleas, Criminal Division, dated 10/23/18
	:	at No. CP-46-CR-287-1979
	:	
JAMES HENRY COBBS,	:	
	:	
Appellant	:	SUBMITTED: January 22, 2021

**CONCURRING OPINION**

**JUSTICE SAYLOR**

**DECIDED: August 17, 2021**

I join the majority opinion, except for its conclusion that Appellant’s claim that his conviction and sentence were invalid under *Miller v. Alabama*, 567 U.S. 460, 132 S. Ct. 2455 (2012), and *Mongtomery v. Louisiana*, 577 U.S. 190, 136 S. Ct. 718 (2016), satisfies the Post Conviction Relief Act’s eligibility criterion relating to constitutional violations or violations of laws of the United States which “so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.” Majority Opinion, *slip op.* at 27 (quoting 42 Pa.C.S. §9543(a)(2)(i)).

My difficulty is with conceptualizing that the Pennsylvania General Assembly would have contemplated a retroactive application of the United States Supreme Court’s Eighth Amendment evolving-norms jurisprudence as impacting on the truth-determining process. To me, it would be more straightforward to couch the impediment

as a legal one being retroactively imposed under the transformed federal jurisprudence and to apply the rationale of *Commonwealth v. Lantzy*, 558 Pa. 214, 736 A.2d 564 (1999), to support eligibility. See *id.* at 222-25, 736 A.2d at 569-70 (reconciling the PCRA's competing objectives to channel the gamut of collateral challenges to judgments of sentence through the statutory scheme versus the apparent aim to narrow the classes of cases that could be considered in favor of a broader, non-textual approach to eligibility).