M.D. Appeal Dkt.
6 - 2020

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 288 MAL 2019
	:	
Respondent	:	
	:	Petition for Allowance of Appeal
	:	from the Order of the Superior Court
v.	:	
	:	
	:	
JOSEPH BERNARD FITZPATRICK, III,	:	
	:	
Petitioner	:	

ORDER

PER CURIAM

AND NOW, this 3rd day of February, 2020, the Petition for Allowance of Appeal is **GRANTED**. The issues, the first restated for clarity and the second as stated by Petitioner, are:

> (1) Whether a note written by a victim of a homicide at some unknown time before the author's death saying "if something happens to me -- Joe" is admissible under the state of mind exception to the ban on hearsay as embodied in Pennsylvania Rule of Evidence 803(3)?
>
> (2) Where inculpatory hearsay is improperly admitted against an accused, may a reviewing court dismiss the claim by averring the evidence was not offered for its truth if the jury was not so instructed and the statement was instead argued for its truth and is core to the prosecution case?