

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA)
)
vs.)
)
GERALD A. SANDUSKY)

Nos. CP-14-CR-2421-2011 &
CP-14-CR-2422-2011

Commonwealth Attorneys:
Defense Attorney:

Frank Fina, Esquire
Joseph L. Amendola, Esquire
Norris E. Gelman, Esquire

1925(b) STATEMENT

The defendant, Gerald A. Sandusky, by his attorney, Norris E. Gelman, submits the following in response to the Order of The Honorable John M. Cleland dated February 22, 2013 requiring him to file a 1925(b) Statement within 21 days of its date.

The following claims will be raised on the appeal from the Order of The Honorable John M. Cleland dated 1/30/13 denying Post Sentencing Motions as of CP-14-CR-2421-2011 and CP-14-CR-2422-2011:

I. THE COURT ABUSED ITS DISCRETION AND VIOLATED DUE PROCESS OF LAW AS GUARANTEED BY THE FIFTH AMENDMENT BY INTERFERING WITH THE DEFENDANT'S SIXTH AMENDMENT RIGHT TO COUNSEL WHEN IT DENIED DEFENSE MOTIONS FOR A CONTINUANCE BASED ON ITS INABILITY TO INTEGRATE THE VAST AMOUNT OF MATERIAL TURNED OVER BY THE PROSECUTION TO THE DEFENSE WHEN TRIAL WAS IMMINENT WHICH RESULTED IN THE LACK OF TIME TO PREPARE AND UTILIZE SUCH MATERIAL TO FORWARD A DEFENSE OR DEFENSES TO THE CHARGES.

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DEBRA C. IMMERS
PROTHONOTARY
CENTRE COUNTY, PA

A. THE ERROR IN DENYING THE REQUESTED CONTINUANCES INTERFERED WITH THE DEFENDANT'S RIGHT TO COUNSEL, PREVENTING TIME TO PREPARE WHICH IS A CONSTRUCTIVE DENIAL OF THE RIGHT, AND AS A RESULT, THE DEFENDANT IS NOT REQUIRED TO SHOW PREJUDICE.

II. REVERSIBLE ERROR WAS COMMITTED WHEN THE TRIAL COURT REFUSED THE DEFENSE REQUEST TO GIVE JURY INSTRUCTIONS ON THE FAILURE OF THE ALLEGED VICTIMS TO MAKE A PROMPT COMPLAINT TO AUTHORITIES BASED ON ITS VIEW OF "THE RESEARCH" WHICH LED THE COURT TO BELIEVE THAT IN THE AREA OF CHILD SEXUAL ABUSE SUCH AN INSTRUCTION WAS NOT "AN ACCURATE INDICIA OF HONESTY AND MAY BE MISLEADING."

III. THE COURT COMMITTED REVERSIBLE ERROR WHEN IT REQUIRED THE JURY TO WEIGH THE TESTIMONY OF THE DEFENDANT'S CHARACTER WITNESSES AGAINST ALL OF THE OTHER EVIDENCE IN THE CASE.

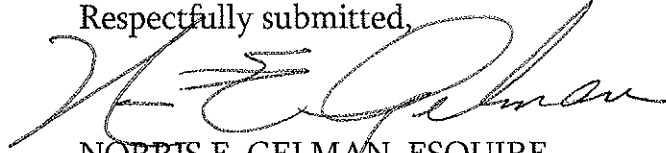
IV. THE COMBINED EFFECT OF THE COURT'S REFUSAL TO GIVE THE FAILURE TO MAKE A PROMPT REPORT INSTRUCTION COUPLED WITH THE COURT'S DIRECTING THE JURY TO WEIGH CHARACTER EVIDENCE AGAINST THE OTHER EVIDENCE IN THE CASE IMPAIRED THE DEFENDANT'S CREDIBILITY DEFENSE AND HIS GOOD CHARACTER DEFENSE.

V. REVERSIBLE ERROR OCCURRED WHEN THE PROSECUTOR COMMENTED ADVERSELY ON THE DEFENDANT'S NOT TESTIFYING AT TRIAL

VI. THE COURT ERRED WHEN IT PERMITTED THE COMMONWEALTH TO INTRODUCE THE HEARSAY TESTIMONY OF RONALD PETROSKY CONCERNING THE STATEMENT PURPORTEDLY MADE BY JAMES CALHOUN TO HIM, AND OTHERS, CONCERNING CALHOUN'S OBSERVATIONS IN THE SHOWER RELATING TO ALLEGED VICTIM 8.

VII. THE COURT ERRED IN DENYING DEFENDANT'S MOTIONS TO DISMISS CHARGES DELINEATED IN CRIMINAL INFORMATION NOS. CP - 14 - CR - 2421 - 2011 AND CP - 14 - CR - 2422 - 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Norris E. Gelman". The signature is fluid and cursive, with a large, sweeping initial "N".

NORRIS E. GELMAN, ESQUIRE
ATTORNEY FOR JERRY SANDUSKY
2000 MARKET STREET
SUITE 2940
PHILADELPHIA, PA. 19103
215-574-0513
ATTY ID # 14223

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CRIMINAL ACTION - LAW

COMMONWEALTH OF PENNSYLVANIA)
)
 v.) No. CP-14-CR-2421-2011
) No. CP-14-CR-2422-2011
GERALD A. SANDUSKY)

Attorney for Commonwealth: Joseph McGettigan, Esq./ James P. Barker, Esq.
Attorney for Defendant: Joseph L. Amendola, Esq. / Norris E. Gelman, Esq. / Karl Rominger, Esq.

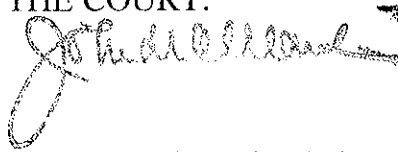
ORDER

AND NOW, this 22nd day of February, 2013, upon receipt of the Defendant's Notice of Appeal, the following is the ORDER of this Court:

1. The Defendant shall file of record a statement of errors complained of on appeal ("Statement") within twenty-one (21) days of the filing of this Order; and
2. The Statement shall be served on this Court pursuant to Pa.R.A.P. 1925(b)(1).

Further, the Defendant is hereby notified that any issue not properly included in the timely filed Statement shall be deemed waived by the appellate court.

BY THE COURT:



John M. Cleland, Senior Judge
Specially Presiding

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PROTHONOTARY
CENTRE COUNTY

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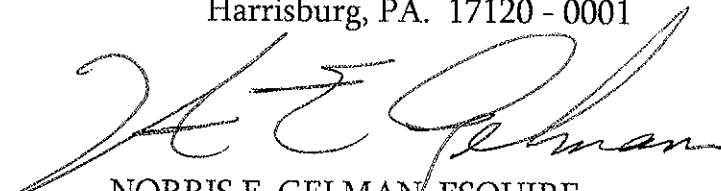
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CERTIFICATION OF SERVICE OF THE WITHIN 1925(b) STATEMENT

Norris E. Gelman, Esquire, counsel for Gerald A. Sandusky, the above captioned defendant herein certifies that on March 8, 2013 he mailed (by first class mail) a copy of the within 1925(b) Statement to:

The Honorable John Cleland
c/o Maxine Ishler
Court Administrator
Centre County Courthouse
102 Allegheny Street
Bellefonte, PA. 16823

Frank Fina, Esquire
Deputy Attorney General
Office of the Attorney General
Criminal Prosecutions
Strawberry Square 16th Floor
Harrisburg, PA. 17120 - 0001



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