

ORIGINAL

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

COMMONWEALTH OF PENNSYLVANIA

V.

GERALD A. SANDUSKY
(DEFENDANT)

CP-14-CR-2421-2011

CP-14-CR-2422-2011

MOTION TO QUASH

FILED FOR RECORD
2012 MAY -4 P 1:39
DEBRA C. IMMEL
PROTHONOTARY
CENTRE COUNTY, PA

NOW comes the Clinton County Children and Youth Social Services Agency by and through its attorney, Michael Angelelli, Esquire, and respectfully avers as follows:

- 1) Defendant has served a Subpoena upon Gerald Rosamilia, Director, Clinton County Children and Youth Social Services Agency ("Agency") seeking various records, documents, and reports. See Exhibit "A" attached and incorporated herein.
- 2) Defendant has also served a Subpoena upon "Michael Gillum, Ph.D., Psychologist, Clinton County Counseling Services, 232 East Main Street, P.O. Box 787, Lock Haven, PA 17745" seeking various records, documents, and reports relating to accuser/alleged Victim No. 1 in these matters. See Exhibit "B" attached and incorporated herein.
- 3) Pursuant to 23 Pa.C.S.A. § 6339 reports of child abuse "including, but not limited to, report summaries of child abuse and written reports made pursuant to section 6313(b) and (c) (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged

instances of child abuse in the possession of the department or a county agency shall be confidential.”

- 4) Pursuant to 23 Pa.C.S.A. § 6340(a)(5) reports specified in section 6339 may be made available to “[A] court of competent jurisdiction, including a magisterial district judge, a judge of the Philadelphia Municipal Court and a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under section 6303(b) (relating to definitions). Disclosure through testimony shall be subject to the restrictions of subsection (c).” In *Commonwealth v. Reed*, 435 Pa.Super. 36, 644 A.2d 1223 (1994) the Superior Court held that under this section “CYS file materials may be disclosed pursuant to a court order, that an in camera inspection was sufficient in this case to protect both the defendant’s right to meaningfully cross-examine his victim and the state’s right to keep this information confidential.” *Id.* at 44, 644 A.2d at 1226.
- 5) Pursuant to 23 Pa.C.S.A. § 6340(b) a “subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide central register or in any report filed pursuant to section 6313 (relating to reporting procedure).”
- 6) Pursuant to 23 Pa.C.S.A. §6336 the “Statewide central register shall include and be limited to the following information:
 - (1) The names, Social Security numbers, age and sex of the subjects of the reports;
 - (2) The date or dates and the nature and extent of the alleged instances of suspected child abuse;
 - (3) The home addresses of the subjects of the reports;

- (4) The county in which the suspected abuse occurred;
 - (5) Family composition;
 - (6) The name and relationship of the abused child of other persons named in the report;
 - (7) Factors contributing to the abuse;
 - (8) The source of the report;
 - (9) Services planned or provided;
 - (10) Whether the report is a founded report or an indicated report;
 - (11) Information obtained by the department in relation to a perpetrator's or school employee's request to release, amend or expunge information retained by the department or the county agency;
 - (12) The progress of any legal proceedings brought on the basis of the report of suspected child abuse;
 - (13) Whether a criminal investigation has been undertaken and the result of any investigation and of any criminal prosecution.
- 7) The information requested in Defendant's subpoena served upon the Agency is privileged pursuant to 23 Pa.C.S. §6339, with the exception of the information outlined under section 6336.
- 8) The Defendant has already been provided with the information which is permitted to be released under sections 6340(b) and 6336.
- 9) Pursuant to 42 Pa.C.S.A. § 5944 "no person who has been licensed to practice psychology shall be, without the written consent of his client, examined in any civil or criminal matter as to any information acquired in the course of his professional services in behalf of such client. The confidential relations and communications between a psychologist or psychiatrist and his client shall be on the same basis

as those provided or prescribed by law between an attorney and client." See also *Commonwealth v. Patosky*, 440 Pa. Super. 535, 656 A.2d 499 (1995).

10) The information requested in Defendant's subpoena served upon Michael Gillum falls within the psychologist/client privilege outlined in 42 Pa.C.S.A. § 5944.

WHEREFORE, Movant respectfully requests that the Court quash the aforementioned subpoenas.

A handwritten signature in black ink, appearing to read "Michael Angelelli", written over a horizontal line.

Michael Angelelli, Esq.
Attorney I.D. # 62979
On behalf of Clinton County Children
and Youth Social Services Agency
P.O. Box 787
Lock Haven, PA 17745
(570)-893-4100

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

COMMONWEALTH OF PENNSYLVANIA

V.

GERALD A. SANDUSKY
(DEFENDANT)

CP-14-CR-2421-2011
CP-14-CR-2422-2011

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing document upon the following individuals by depositing same in the United States mail, first class, postage prepaid, on May 4, 2012:

Joseph L. Amendola, Esquire
110 Regent Court
Suite 202
State College, PA 16801

Jonelle Harter Eshbach, Esquire
Office of the Attorney General
Strawberry Square, 16th Floor
Harrisburg, PA 17120

DEBRA C. IMMEL
PROTHONOTARY
CENTRE COUNTY, PA

2012 MAY -4 P 1:39

FILED FOR RECORD



Michael Angelelli, Esq.
Attorney I.D. # 62979
On behalf of Clinton County Children
and Youth Social Services Agency
P.O. Box 787
Lock Haven, PA 17745
(570)-893-4100

Commonwealth of Pennsylvania
COUNTY OF CENTRE

COMMONWEALTH OF PENNSYLVANIA

VS.

GERALD A. SANDUSKY, DEFENDANT

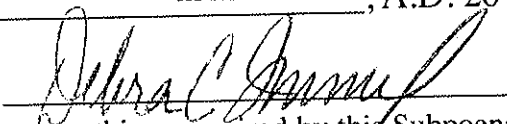
TO MR. GERALD ROSAMILIA, DIRECTOR, CLINTON COUNTY CHILDREN & YOUTH SERVICES, 232 EAST MAIN STREET, P.O. BOX 787, LOCK HAVEN, PA 17745

You are ordered by the court to come to CENTRE COUNTY COURTHOUSE, COURTROOM NO. 1, SECOND FLOOR, 102 SOUTH ALLEGHENY STREET at Bellefonte, Pennsylvania, on WEDNESDAY, MAY 16, 2012 at 10:00 A. M. to testify on behalf of DEFENDANT in the above captioned case

and to remain until excused.

And bring with you the following: COMPLETE AND NON-REDACTED COPIES OF THE INFORMATION REQUESTED IN THE SUBPOENA ATTACHMENT.

Witness, the Honorable, Thomas K. Kistler, President Judge of our said Court at Bellefonte, this 10TH day of APRIL, A.D. 2012

 Prothonotary

If you fail to attend or to produce the documents or things required by this Subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania rules of Procedure, including, but not limited to, costs, attorney fees, and imprisonment.

CC 106

Exhibit "A"

COURT SUBPOENA

COMMONWEALTH OF PENNSYLVANIA

vs.

GERALD A. SANDUSKY, DEFENDANT

SUBPOENA ON PART OF

DEFENDANT

Issued by: JOSEPH L. AMENDOLA, ESQUIRE
(attorney's name, address, phone #, and ID #)

110 RECENT COURT, SUITE 202
STATE COLLEGE, PA 16801
(814) 234-6821
I.D. NO. 17667

CENTRE COUNTY, ss:

_____, being duly sworn according to
law, doth depose and say, that he served the within Subpoena upon _____

Sworn to and subscribed before me this _____ :

_____ day of _____ A.D. 20 _____ :

JOSEPH L. AMENDOLA

ATTORNEY-AT-LAW

110 REGENT COURT
SUITE 202
STATE COLLEGE, PA 16801-7966

TELEPHONE
814-234-6821

FAX
814-234-6013

April 10, 2012

Mr. Gerald Rosamilia, Director
Clinton County Children & Youth Services
232 East Main Street
P.O. Box 787
Lock Haven, PA 17745


**RE: Commonwealth v. Gerald A. Sandusky
Subpoena with Attachment**

Dear Mr. Rosamilia:

Please find enclosed a subpoena requiring the production of information as provided in the Subpoena Attachment. If this information is provided to me at my above-listed office address on or before May 14, 2012, it will not be necessary for a representative of your agency to appear in court in Centre County, Pennsylvania, on May 16, 2012 at 10:00 a.m. with the requested information.

Thank you for your anticipated prompt attention to this matter. I will await further word from a representative of the agency concerning the request contained in this correspondence.

Truly,


Joseph L. Amendola, Esquire

JLA:dka
Enclosures

NOTICE

**BY ORDER OF THE COURT OF COMMON
PLEAS OF CENTRE COUNTY,
PENNSYLVANIA, DATED MARCH 13, 2012,
ANY PERSON OR AGENCY RECEIVING THIS
SUBPOENA IS NOTIFIED THAT THE NAME
OR ANY IDENTIFYING INFORMATION OF
THE PERSON FOR WHOM THE RECORDS
OR OTHER INFORMATION IS SOUGHT IS
PROTECTED BY THE SEAL OF THE COURT.**

**UNDER POTENTIAL PENALTY OF
CONTEMPT OF COURT, THE PERSON'S
NAME OR IDENTIFYING INFORMATION MAY
NOT BE DISCLOSED TO ANY PERSON
EXCEPT AS REQUIRED TO COMPLY WITH
THIS SUBPOENA.**

JOSEPH L. AMENDOLA

ATTORNEY-AT-LAW
110 REGENT COURT
SUITE 202
STATE COLLEGE, PA 16801-7966

TELEPHONE
814-234-6821

FAX
814-234-6013

SUBPOENA ATTACHMENT

Mr. Gerald Rosamilia, Director
Clinton County Children & Youth Services
232 East Main Street
PO Box 787
Lock Haven, PA 17745

**Re: Commonwealth of Pennsylvania vs. Gerald A. Sandusky,
Nos. CP-14-CR-2421-2011 & CP-14-CR-2422-2011**

Dear Mr. Rosamilia:

Pursuant to the enclosed Subpoena and Subpoena Attachment, you are requested to provide Joseph L. Amendola, Esquire, 110 Regent Court, Suite 202, State College, PA 16801 with copies of Clinton County Children and Youth Services records, documents and reports as described in this Subpoena Attachment. The following records, documents and reports are to be provided in their original form with no redactions and/or pages omitted:

A. Copies of all Clinton County CYS records, documents and/or investigative reports that relate to Gerald Sandusky, AKA Jerry Sandusky, regardless of Mifflin County CYS's investigation finding the alleged conduct founded or unfounded.

B. Copies of all Clinton County CYS investigative reports that reflect as follows:

1. Interviews of alleged victim(s) that were recorded by video, voice or other method of retention of the interview;
2. The full names and professional addresses of all Clinton County CYS employees who interviewed alleged victim(s);
3. Copies of all medical reports and/or psychological records within the Clinton County CYS file(s);
4. Identification of all vendors who provided psychological services to the victim(s);
5. Copies of all forensic interviews completed by Clinton County CYS personnel and/or outside vendor contracted to perform the forensic interview;

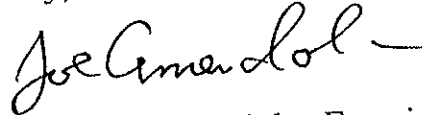
6. Copies of all Clinton County CYS records, documents and investigative reports that were provided to the Pennsylvania State Police/Office of Attorney General for the Commonwealth;

7. Copies of all school records obtained by Clinton County CYS and/or provided by respective schools the alleged victims attended;

8. Copies of all reports provided to the Commonwealth/Office of Attorney General that reflect Clinton County CYS finding(s) of suspected child abuse in the Sandusky investigation were founded or unfounded;

9. Copies of all Clinton County CYS reports, documents, investigative reports or related information not specified in numbers 1 through 8 above in regard to the above-captioned matter.

Truly,

A handwritten signature in cursive script, appearing to read "Joe Amendola", followed by a horizontal line.

Joseph L. Amendola, Esquire

JLA:dka

Commonwealth of Pennsylvania
COUNTY OF CENTRE

COMMONWEALTH OF PENNSYLVANIA

VS.

GERALD A. SANDUSKY, DEFENDANT

TO MICHAEL W. GILLUM, PH.D., PSYCHOLOGIST, CLINTON COUNTY COUNSELING SERVICES, 232 EAST
MAIN STREET, P.O. BOX 787, LOCK HAVEN, PA 17745
CENTRE COUNTY COURTHOUSE, COURTROOM NO. 1,

You are ordered by the court to come to _____ at Bellefonte, Pennsylvania, on
SECOND FLOOR, 102 SOUTH ALLEGHENY STREET
WEDNESDAY, MAY 16, 2012 at 10:00 A. M. to testify on behalf of
DEFENDANT _____ in the above captioned case

and to remain until excused.

And bring with you the following: COMPLETE AND NON-REDACTED COPIES OF THE
INFORMATION REQUESTED IN THE SUBPOENA ATTACHMENT.

Witness, the Honorable, Thomas K. Kistler, President Judge of our said
Court at Bellefonte, this 10TH day of APRIL, A.D. 20 12

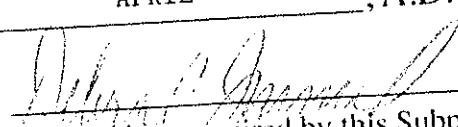
 Prothonotary
If you fail to attend or to produce the documents or things required by this Subpoena, you may be
subject to the sanctions authorized by Rule 234.5 of the Pennsylvania rules of Procedure, including, but
not limited to, costs, attorney fees, and imprisonment.

Exhibit "B"

JOSEPH L. AMENDOLA

ATTORNEY-AT-LAW

110 REGENT COURT
SUITE 202
STATE COLLEGE, PA 16801-7966

TELEPHONE
814-234-6821

FAX
814-234-6013

April 10, 2012

Michael W. Gillum, Ph.D.
Clinton County Counseling Services
232 East Main Street
P.O. Box 787
Lock Haven, PA 17745

**RE: Commonwealth v. Gerald A. Sandusky
Subpoena with Attachment**

Dear Dr. Gillum:

Please find enclosed a subpoena requiring the production of information as provided in the Subpoena Attachment. If this information is provided to me at my above-listed office address on or before May 14, 2012, it will not be necessary for a representative of your organization to appear in court in Centre County, Pennsylvania, on May 16, 2012 at 10:00 a.m. with the requested information.

Thank you for your anticipated prompt attention to this matter. I will await further word from a representative of the organization concerning the request contained in this correspondence.

Truly,



Joseph L. Amendola, Esquire

JLA:dka
Enclosures

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JOSEPH L. AMENDOLA

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SUBPOENA ATTACHMENT

Michael W. Gillum, Ph.D., Psychologist
Clinton County Counseling Services
232 East Main Street
P.O. Box 787
Lock Haven, PA 17745

**RE: Commonwealth of Pennsylvania vs. Gerald A. Sandusky,
Nos. CP -14-CR-24-2011 & CP-14-CR-2422-2011**

Dear Dr. Guillum:

Pursuant to the enclosed Subpoena and Subpoena Attachment, you are requested to provide Joseph L. Amendola, Esquire, 110 Regent Court, Suite 202, State College, PA 16801 with copies of records, documents and reports as described in this Subpoena Attachment. On a Clinton County Children and Youth Services' (CYS) Report authored by Jessica Dersham and attached to Pennsylvania State Police Report No. G07-1147135/Attorney General No. 63-275, as well as a brief letter to Clinton County CYS your name appeared as providing Psychological services for accuser/alleged Victim No. 1 [REDACTED] in the above-captioned matter. Therefore the following information is requested to be provided in its full and complete form void of redactions as well as documents removed prior to issuance:

A. Complete office file on accuser/alleged Victim No. 1 to include but not limited to the following records for accuser/alleged Victim No. 1:

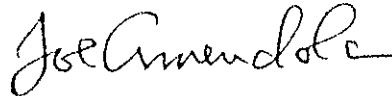
1. All testing completed by you of this individual;
2. All referrals made for testing of this individual with testing(s) results;
3. Copies of all school records you requested and or were provided to you by this individual or other source(s);
4. Copies of all your reports that were provided to the Pennsylvania State Police/Office of Attorney General;
5. Copies of all opinion(s) you developed regarding this individual based upon your training and education which resulted in your title Ph.D.;

6. Copies of any and all self assessments completed by this individual;

7. Copies of all reports, documents and files that would pertain to the individual's self description of the alleged occurrences between he and Gerald Sandusky;

8. All other file documents not described in Nos. 1 through 7 of this Subpoena Attachment in regard to the above-captioned matter.

Truly,

A handwritten signature in cursive script, appearing to read "Joe Amendola".

Joseph L. Amendola, Esquire

JLA:dka
Enclosure