

THE LINDSAY LAW FIRM, P.C.

110 EAST DIAMOND STREET, SUITE 301 BUTLER, PENNSYLVANIA 16001

ALEXANDER H. LINDSAY, JR.

PHONE: 724/282-6600

FAX: 724/282-2672

OF COUNSEL

JOHN J. VIERTHALER

THOMAS R. CERASO (1934 - 2009)

Via Fax to 814.355.6707

November 4, 2015

Honorable John M. Cleland, Judge
Centre County Courthouse
102 South Allegheny Street
Belleville, Pennsylvania 16823

Re: Commonwealth v. Gerald Sandusky
CP-14-CR-0002421-2011
CP-14-CR-0002422-2011

FILED UNDER SEAL

FILED FOR RECORD
2015 NOV -4 PM 3:24
DEBRA C. HUNEL
PROTHONOTARY
CENTRE COUNTY, PA

Dear Judge Cleland:

This letter addresses Attorney General Kane's letter of November 3, 2015, filed in response to the Court's Order of October 29, 2015.

While, the Attorney General's response includes a statement that that "The statement of October 28, 2015 provided to Pennsylvania media outlets by me through the Office of Attorney General, attached hereto . . ." The copy received by counsel on November 4, 2015 did not include a copy of the statement. In the short time allotted to us, we have made efforts to obtain a copy of the release in question, however, our efforts have been unsuccessful. Thus, to that extent we are handicapped in our response.

It appears that the Attorney General's response sidesteps statements purportedly made by her to reporter Mark Scolforo on September 30, 2015. In an article released, on that date, by the AP (attached as Exhibit A) Scolforo writes as follows:

Ardo provided conflicting statements about the source of leaks in the Sandusky investigation Wednesday. He first said there was no evidence leaks came from anyone associated with the prosecutors' office but hours later said Attorney General Kathleen Kane "has strong suspicions that the leaks came from people associated with this office."

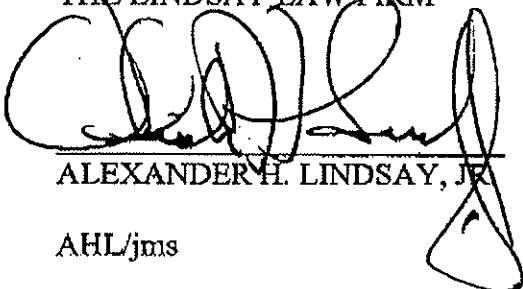
"The attorney general herself is not convinced that the leaks did not emanate from the office of attorney general and will comply with any subpoena seeking information about email traffic between this office and the judge." Ardo said.

The Attorney General's response appears to only address the email traffic between Grand Jury Judge Feudale and former DAG Frank Fina. It does not make any representations nor address other persons in that office including prosecutors, attorneys, investigators and agents associated with the Sandusky prosecution who may have had reason to email Judge Feudale.

Counsel reads the Court's Order of October 29, 2015 not to be limited solely to the email traffic of Grand Jury Judge Feudale but rather is broad enough to include any information at her disposal that would give her strong suspicions, that Judge Feudale and/or prosecutors of the Office of Attorney General in any way orchestrated, facilitated, cooperated in, or arranged for disclosure of otherwise secret grand jury material in this case."

Accordingly, counsel contends that the Attorney General has not fully complied with the Court's Order of October 29, 2015. Further counsel contends that the Attorney General should be required to appear as set forth in Paragraph 3 of the Court's Order to testify, in camera and under oath, regarding the basis for the conclusions set forth in prior statements.

Very truly yours,
THE LINDSAY LAW FIRM



ALEXANDER H. LINDSAY, JR.

AHL/jms

Cc: DAG Jennifer Peterson, Esquire

Honorable John M. Cleland, Judge
Centre County Courthouse
102 South Allegheny Street
Bellefonte, Pennsylvania 16823

Office of the Attorney General
Attention – DAG Jennifer Peterson, Esquire
Appeals Division – Criminal
16th Floor – Strawberry Square
Harrisburg, Pennsylvania 17120

The Daily Collegian

Published independently by students at Penn State

fireHD8
amazon

MORE DURABLE
THAN IPAD AIR 2

Starting at \$149.99

LEARN MORE

College Football

The Daily Collegian at Penn State

News

State College

Campus

All Sports

Football

Arts Opinions

Sandusky wants subpoena power to look into 2011 case leaks

By MARK SCOLFORO

— Sep. 30, 2015 6:13 PM EDT

Home » Jerry Sandusky » Sandusky wants subpoena power to look into 2011 case leaks

HARRISBURG, Pa. (AP) — Former Penn State assistant football coach Jerry Sandusky wants a judge to let him explore contacts between prosecutors and a judge who oversaw the grand jury that recommended he be charged with child molestation.

Sandusky, who was convicted of molesting boys but maintains his innocence, on Tuesday filed a court document saying he also wants to look into how information about the grand jury investigation was published eight months before he was arrested in 2011.

The new filing argued that leaks in the investigation were "part of the systemic breakdown of the grand jury process ... over time by the attorney general's office and supervising judges."

Sandusky attorney Al Lindsay asked to be given emails and other records of communications between state prosecutors and judges and the ability to get sworn statements from anyone with access to the grand jury proceedings. Lindsay said Sandusky, now in state prison, is expected to attend an appeal hearing on those and other post-trial issues on Oct. 29 in Bellefonte.

Prosecutors were reviewing the filing and planned to respond, attorney general's office spokesman Chuck Ardo said.

Ardo provided conflicting statements about the source of leaks in the Sandusky investigation Wednesday. He first said there was no evidence leaks came from anyone associated with the prosecutors' office but hours later said Attorney General Kathleen Kane "has strong suspicions that the leaks came from people associated with this office."

"The attorney general herself is not convinced that the leaks did not emanate from the office of attorney general and will comply with any subpoena seeking information about email traffic between this office and the judge," Ardo said.

The Patriot-News first reported in a March 2011 story by Sara Ganim that a grand jury was looking into allegations against

EXHIBIT A

11/4/2015

Sandusky wants subpoena power to look into 2011 case leaks | College Football

Sandusky, a story that helped the newspaper win a Pulitzer Prize. Ganim, now a CNN correspondent, is among those Sandusky wants to subpoena.

Lindsay told Judge John Cleland he wants more information about the February 2013 appointment by Judge Barry Feudale, who oversaw the grand jury, of a special prosecutor to look into grand jury secrecy violations. Lindsay said his office called the special prosecutor, lawyer James Reeder, who told him "he would not even speak with anyone regarding his investigation without a court order."

The order from Feudale that appointed Reeder set his pay at \$72 an hour and gave him six months to produce a report. It's unclear what work, if any, was performed by Reeder, who formerly worked at the attorney general's office. Reeder, now a prosecutor with the Lancaster County district attorney's office, did not return a phone message Wednesday.

Recent news accounts of inappropriate emails between prosecutors and judges in Pennsylvania have raised the possibility they also engaged in improper discussions about Sandusky's case, Lindsay wrote.

"This would of course result in a 'tainting' of the grand jury investigation and would have likely had significance in the grand jury presentment accusing the defendant of various criminal acts and subsequent prosecution," Lindsay wrote.

Ardo said it's not unusual for prosecutors and a grand jury supervisory judge to be in contact with each other.

"We are not aware of any inappropriate communications between this office and Judge Feudale," Ardo said.

Participation in pornographic, explicit and otherwise objectionable emails that circulated at the attorney general's office led a state Supreme Court justice, Seamus McCaffery, to apologize and retire last year after his colleagues suspended him.

Kane fired or disciplined dozens of employees over the emails, and several former employees of the office lost their jobs after their participation in the exchanges became public.

Kane, who was elected a year after Sandusky was charged, is currently awaiting trial on charges she leaked material from an unrelated grand jury investigation to a reporter last year and then lied to cover it up, charges she has vigorously disputed.

Sandusky, who served for decades as defensive coach of Penn State's powerhouse football program, was convicted in 2012 of 45 counts of child sexual abuse. He was sentenced to 30 to 60 years in state prison. He has acknowledged showering with boys but denied molesting them.

Tags

Jerry Sandusky, Penn State, General news, Government and politics, Judiciary, Crime, Crimes against children, Violent crime, Law and order, Criminal investigations, Legal proceedings, Sexual abuse, Media, Child abuse, News media, Newspapers, Government appointments and nominations, Subpoenas, Judicial appointments and nominations, Kathleen Kane, Sara Ganim

YOU MAY LIKE

Sponsored Links by Taboola

Why Aren't Homeowners Taking Advantage of HARP?
Lower My Bills

Learn How To Diversify Successfully Into Real Estate
HomeUnion