

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:

Joseph McGettigan, Esquire

Jonelle H. Eshbach, Esquire

Defense Attorney:

Joseph L. Amendola, Esquire

MEMORANDUM IN SUPPORT OF DEFENDANT'S
MOTION FOR BILL OF PARTICULARS

TO THE HONORABLE JOHN M. CLELAND, SENIOR JUDGE SPECIALLY ASSIGNED
TO THIS MATTER IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA:

The Defendant has been charged with various offenses by the Commonwealth in Criminal Information Nos. CP-14-CR-2421-2011 and CP-14-CR-2422-2011. The Defendant, through counsel, requested a Bill of Particulars from the Commonwealth on or about January 18, 2012, and, in the absence of a reply from the Commonwealth, filed an Application for Order for Bill of Particulars on or about January 24, 2012. The Court has scheduled a hearing on the Defendant's motion on February 10, 2012. In his request for a Bill of Particulars, the Defendant requested the following information from the Commonwealth in regard to all of the charges filed against him:

- (1) The exact time, date and location that the offense giving rise to this Count in the Information filed against the Defendant occurred.
- (2) The particular acts of the Defendant and other alleged facts and exact location which the Commonwealth alleges provide the underlying basis for the offense with which the Defendant is charged in this Count of the Information filed against the Defendant.
- (3) The exact age of the accuser/alleged victim at the time the alleged offense occurred.

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(4) The names, addresses and dates of birth of all witnesses including the accuser/alleged victim to the offense alleged in this Count of the Information filed against the Defendant in this matter.


The Commonwealth has indicated that, while it intends to provide Defendant's counsel with the names of the ten (10) accusers in his cases, it has also purportedly indicated its opposition to providing Defendant with the other information requested in his Bill of Particulars. The Defendant is requesting that this Court enter an Order directing the Commonwealth to provide his counsel with all of the information requested in his Bill of Particulars in a timely fashion so he can properly prepare his defense for trial in these matters.

The traditional function of a bill of particulars is to clarify the pleadings, limit the evidence that can be offered to support the criminal information, and give notice to the accused of the charges so that he may prepare a defense, avoid surprise, and raise pleas of double jeopardy and the statute of limitations. Commonwealth v. Dreibelbis, 493 Pa. 466, 426 A.2d 1111 (1981); see also Commonwealth v. Champney, 832 A.2d 403, 574 Pa. 435, 2003, certiorari denied 124 S.Ct. 2906, 542 U.S. 939, 159 L.Ed.2d 816. While the criminal information must specify the offense and state its elements, the Defendant submits further specifications in his cases are necessary to establish circumstances and occurrences, times and places, alleged victims, instrumentalities employed, and further details of the acts alleged to have been committed by the Defendant. The proper function of a bill of particulars is to provide the accused with additional specifications concerning the charges filed against him. The Court has the discretion to enter an order granting the relief sought by the defendant as it deems necessary in the interests of justice to afford

the defendant with an opportunity to properly prepare his cases for trial. See Pa.R.Crim.P. 572(D). Commonwealth v. Champney, supra. The function of a bill of particulars is to give notice to the accused of the offenses charged in order to permit him to prepare a defense, avoid surprise, and be placed on notice as to any restrictions upon the Commonwealth's proof. Commonwealth v. Delbridge, 771 A.2d 1, Pa.Super. 2001, reargument denied, appeal granted in part 783 A.2d 764, 566 Pa. 618, remanded 855 A.2d 27, 578 Pa. 641, opinion after remand 859 A.2d 1254, 580 Pa. 68; Commonwealth v. Larsen, 682 A.2d 783, 452 Pa.Super. 508, Pa.Super. 1996, reargument denied, appeal denied 692 A.2d 564, 547 Pa. 752.

In the instant cases, the Defendant has been charged by the Commonwealth with engaging in inappropriate sexual conduct with ten (10) minors, none of whom were identified by the Commonwealth, prior to February 3, 2012, and even then, the Commonwealth failed to provide the Defendant with dates of birth and/or specific details concerning the dates and locations where the alleged inappropriate sexual conduct occurred thus crippling the Defendant's ability to meaningfully raise alibi and statute of limitation defenses in these matters. For these reasons, and in the interests of justice, the Defendant is requesting that this Honorable Court enter an Order directing the Commonwealth to provide Defendant's counsel with all or, in the alternative, part of the information requested in his Bill of Particulars in these matters by a date certain so he may properly and adequately prepare his defense in his cases.

Respectfully submitted,

BY: 
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Date: February 6, 2012

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