

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

IN RE: : SUPREME COURT OF PENNSYLVANIA
: _____ M.D.MISC.DKT. 2011
THE THIRTY-THIRD STATEWIDE :
INVESTIGATING GRAND JURY : CENTRE COUNTY COMMON PLEAS
: Nos. CP-14-CR-2421-2011 &
vs. : CP-14-CR-2422-2011
:
GERALD A. SANDUSKY : NOTICE NO. _____

Commonwealth Attorneys:

Joseph McGettigan, Esquire

Jonelle H. Eshbach, Esquire

Defense Attorney:

Joseph L. Amendola, Esquire

SPECIAL MOTION

MOTION FOR EARLY RELEASE OF GRAND JURY TESTIMONY

TO THE HONORABLE BARRY F. FEUDALE, SENIOR JUDGE, PRESIDING JUDGE OF THE THIRTY-THIRD STATEWIDE INVESTIGATING GRAND JURY OF PENNSYLVANIA; AND THE HONORABLE JOHN M. CLELAND, SENIOR JUDGE SPECIALLY ASSIGNED TO THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA:

AND NOW, comes the Defendant, through his attorneys, Joseph L. Amendola, Esquire and Karl Rominger, Esquire, who request the following special relief while reserving the right to file additional motions as set forth in the Court's Scheduling Order dated January 10, 2012:

1. On or about November 5, 2011, the Defendant was arrested in Criminal Information No. CP-14-CR-2422-2011 by Cpl. Scott F. Rossman of the Pennsylvania State Police, Avondale Barracks and Agent A.L. Sassano of the Pennsylvania Office of Attorney General and charged with various offenses stemming from conduct which allegedly occurred on diverse dates between January 1994 and

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CENTRE COUNTY, PA

December 2008, in College Township, Centre County, Pennsylvania and various other locations.

2. On or about December 7, 2011, the Defendant was arrested in Criminal Information No. CP-14-CR-2421-2011 by Trooper Robert Yakicic of the Pennsylvania State Police, Bureau of Criminal Investigations, and Agent A.L. Sassano of the Pennsylvania Office of Attorney General, and charged with additional offenses stemming from conduct which allegedly occurred on or about January 1997 to December 2008 in College Township, Centre County, Pennsylvania and various other locations.

3. The charges filed against the Defendant in the above-captioned matters stem from an ongoing Grand Jury investigation over a several-year period which culminated in the Thirty-Third Statewide Investigating Grand Jury issuing a Presentment charging the Defendant in late 2011 with various offenses stemming from conduct which allegedly occurred on diverse dates between January 1994 and December 2008 inclusive, in College Township, Centre County, Pennsylvania and various other locations.

4. Based upon the Presentment made by the Thirty-Third Statewide Investigating Grand Jury in late 2011, the Pennsylvania Office of Attorney General filed criminal complaints against the Defendant on November 5, 2011 and December 7, 2011 charging him with the aforementioned various offenses.

5. Trial in the above-captioned matters is presently scheduled in Centre County later this year.

6. This motion is brought specially, and the Defendant specifically reserves his right to file a traditional omnibus pre-trial motion and other motions for relief

with this Court pursuant to the Court's current Scheduling Order dated January 10, 2012 and any future Scheduling Orders issued by the Court.

7. *Pa.R.CrimP.* 230 provides that a copy of the transcript of the testimony of a witness in a criminal case who has previously testified before an investigating grand jury "may be made available (to the defendant) only after the direct testimony of that witness at trial."

8. As of the date of this Motion, the investigation in the Defendant's cases has been ongoing for several years, during which time, perhaps as many as one hundred (100) or more witnesses have testified before the grand juries empaneled in these matters. The Defendant believes a number of these witnesses called before the various aforementioned investigating grand juries have testified on multiple occasions. The Defendant further believes many of these witnesses are expected to be called as Commonwealth witnesses at his trial which is scheduled to be held later this year.

9. The Defendant submits his trial in these cases will be repeatedly interrupted for extended periods if lengthy and multiple transcripts of the grand jury testimony of each witness called by the Commonwealth are provided to the Defendant and his attorneys only at the conclusion of the testimony of each witness.


10. The Defendant submits that early disclosure of so-called Jencks Act material is strongly encouraged by the Third Circuit Court of Appeals, under the standard of 18 U.S.C. Section 3500(b), setting forth the same rule in the same terms as *Pa.R.Crim.P.* 230. See e.g. *United States v. Cyril H. Wecht*, 2007 U.S. Dist. Lexis 59870 (*W.D.Pa.Crim. No. 06-26*, decided August 15, 2007).

11. The Defendant submits the interests of justice will best be served if the Court enters an Order directing the Pennsylvania Office of Attorney General to provide the Defendant with Grand Jury testimony transcripts of all witnesses the Commonwealth intends to call at his trial within fourteen (14) days following the entry of the Court's Order regarding this issue, but, in any event, no later than February 28, 2012.

12. For all the aforementioned reasons, the Defendant requests that this Honorable court direct the Office of Attorney General to provide the Defendant with a copy of the requested Grand Jury transcripts by a date certain which is no later than February 28, 2012.

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter an Order directing the Office of Attorney General to provide the Defendant with a copy of the aforementioned Grand Jury transcripts by a date certain which is no later than February 28, 2012.

Respectfully submitted,

BY: 
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Date: February 6, 2012

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CRIMINAL DIVISION

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Jonelle H. Eshbach, Esquire

Defense Attorney:

Joseph L. Amendola, Esquire

CERTIFICATE OF SERVICE

AND NOW, this 6th day of February, 2012, I, Joseph L. Amendola, hereby certify that I have, this date, served a copy of the foregoing document, by:

Mailed U.S. Mail, First-Class

Hand Delivery and/or Mailed U.S. Mail, 1st Class

Hon. Barry F. Feudale, Senior Judge
Presiding Judge of the Thirty-Third
Statewide Investigating Grand Jury
Northumberland County Courthouse
201 Market Street
Sunbury, PA 17801

Hon. Irene M. Bizzoso, Esquire
Office of the Prothonotary
Supreme Court of Pennsylvania
601 Commonwealth Avenue, Suite 4500
Harrisburg, PA 17106-2575

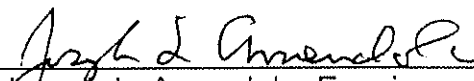
Hand Delivery

Joseph McGettigan, Esquire
Senior Deputy Attorney General
Office of Attorney General
Criminal Prosecutions Section
100 Madison Avenue, Suite 310
Norristown, PA 19403

Hon. John M. Cleland, Senior Judge
c/o Maxine Ishler, Court Administrator
Centre County Courthouse
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