

IN THE CENTRE COUNTY COURT OF COMMON PLEAS, PENNSYLVANIA

COMMONWEALTH : Criminal Division  
v :  
: CP-14-CR-2421-2011 &  
: CP-14-CR-2422-2011  
GERALD A. SANDUSKY :

DEBRA C. IMEL  
PROTHONOTARY  
CENTRE COUNTY, PA

2012 JUN 11 A 8:29

FILED FOR RECORD

MOTION IN LIMINE TO ALLOW FOR COMPLETENESS  
CONCERNING THE USE OF DEFENDANT'S AUTOBIOGRAPHY

This Court should admit the entire text of Touched, the Defendant's autobiography if any portion is admitted against the Defendant by the Commonwealth.

**Pa.R.E. 106 Remainder of related writings or recorded statements**

*When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.*

Here the Commonwealth has believed to be seeking to admit excerpts from Defendant's Autobiography. It is believed that they will use select snippets to mischaracterize Defendant's motivations, purposes and actions, and attempt to use those excerpts to prove actions in conformity with their theories of how he propagated the alleged abuse.

The fact finder should have context to those statements, which is the chapters and book in which they reside. The admission of non-contextualized snippets and statements is extremely prejudicial without hearing them in the full context of the autobiography.

The comment to Rule 106 states:

The purpose of Pa. R.E. 106 is to give the adverse party an opportunity to correct a misleading impression that may be created by the use of portions of a writing or recorded statement that are taken out of context. This rule gives the adverse party the right to correct the misleading impression at the time that the evidence is introduced. The trial court has discretion to decide whether other parts, or other writings or

recorded statements, ought in fairness to be considered contemporaneously with the original portion.

In Commonwealth v. Passmore, 2004 PA Super 336, P32 (Pa. Super. Ct. 2004) there is a fleeting discussion of this rule, where defendant sought to use the rule to exclude evidence because some emails were not recovered. The court declined to do so, saying it is not a rule of exclusion. It however gives no guidance on how the rule should be applied and what the standard is for inclusion besides simply referencing the comment to the Rule laid out above.

If has been said of the analogous Federal Rule;

"Fed. R. Evid. 106 codifies the doctrine of completeness, which guards against the potential for evidence to be misleading when taken out of context. The rule compels admission of additional evidence "if it is necessary to (1) explain the admitted portion, (2) place the admitted portion in context, (3) avoid misleading the trier of fact, or (4) ensure a fair and impartial understanding." United States v. Sherman, 293 Fed. Appx. 158, 159 (3d Cir. Pa. 2008) (*internal citations omitted*)

Here it is clear that only the entire book, or at very least the entire chapters (should the Court grant lesser relief) be admitted to contextualize the quotes and avoid misleading characterizations. The Commonwealth will seek to use the book as an admission or worse proof of character. Understanding those excerpts requires the jury have the whole unvarnished book. This is precisely the instance the rule was designed for.

Respectfully submitted,  
**Rominger & Associates**



Date: June 11, 2012

---

Karl E. Rominger, Esquire  
155 South Hanover Street  
Carlisle, Pennsylvania 17013  
(717) 241-6070  
Supreme Court ID #81924