

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

4 COMMONWEALTH : NO. CP-14-CR-2421-2011  
5 : NO. CP-14-CR-2422-2011

6 VS :

7 GERALD A. SANDUSKY :

8 TRANSCRIPT OF PROCEEDINGS  
9 (Motion to Withdraw)

10  
11 BEFORE: John M. Cleland, Senior Judge

12 DATE: June 5, 2012

13 PLACE: Centre County Courthouse  
14 Judge's Chambers  
15 102 South Allegheny Street  
16 Bellefonte, PA 16823

17 APPEARANCES:

18 FOR THE COMMONWEALTH:  
19 Joseph E. McGettigan, Esq.  
20 Frank G. Fina, Esq.

21 FOR THE DEFENDANT:  
22 Joseph Amendola, Esq.  
23 Karl Rominger, Esq.

24 NOTES BY: Patricia A. Grey, RPR  
25 Official Court Reporter  
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INDEX TO THE WITNESSES

DIRECT CROSS REDIRECT RECROSS

COMMONWEALTH:

(None)

DEFENDANT:

(None)

INDEX TO THE EXHIBITS

ADMITTED

COMMONWEALTH:

(None)

DEFENDANT:

(None)

1 P R O C E E D I N G S

2 THE COURT: We'll note for the record  
3 that we are in chambers about to start jury  
4 selection.

5 Counsel have asked to meet with me.

6 Mr. Amendola.

7 MR. AMENDOLA: Good morning, Your Honor.  
8 Good morning, Frank and Joe.

9 I intend to file a motion to withdraw as  
10 counsel, Mr. Rominger and I, fully realizing the  
11 Court will deny it, based on the lack of  
12 preparation of all the things that are going on  
13 most notably the absence of our experts and jury  
14 consultant and the issue concerning the potential  
15 availability of our key witness due to other  
16 issues which are apparently becoming public which  
17 is based on what I was told yesterday. As well  
18 as the fact that my office is still copying  
19 materials which we cannot send out to anybody  
20 because they're all confidential. They're all  
21 grand jury materials. My staff is ready to quit.  
22 But be that aside, I feel that we're duty-bound  
23 ethically to tell the Court we're not prepared to  
24 go to trial at this time. We could be in certain  
25 time frames down the road but not at this time.

1 And that leads me to file the motion.

2 Now, I don't want to file this publicly.  
3 So I would ask the Court that it be filed under  
4 seal because certainly I don't want to disrupt  
5 the process that's going on.

6 So I'm asking the Court to accept the  
7 motion and have Maxine, if the Court will agree  
8 to file it under seal and I anticipate the Court  
9 will deny but it's important that a record be  
10 made because down the road I think there could be  
11 issues that arise if we don't take this path.

12 THE COURT: Who's your missing witness?

13 MR. AMENDOLA: It's Dottie Sandusky  
14 who's going --

15 THE COURT: Oh.

16 MR. AMENDOLA: Who has some grand jury  
17 issues. She's always been a key part of  
18 Mr. Sandusky's defense and the jury consultant is  
19 still in Puerto Rico. Our experts still haven't  
20 received all the materials because they're still  
21 copying. We can't even get them to a private  
22 company to copy because of the sensitivity of the  
23 materials. I mean, quite frankly, we haven't  
24 even prepared subpoenas. We're in the process of  
25 trying to do all of this while we're picking a

1 jury. It's -- some day when people talk to my  
2 staff and get a real flavor for what was going on  
3 in my office for the past 30, 60 days they'll  
4 have a better understanding this is not a  
5 lawyering. This is reality that we have been so  
6 far behind just keeping up with the discovery  
7 materials and trying to do due diligence, but  
8 we're at a loss.

9 We're here and we have to go. I have  
10 told people it's like the military. When the  
11 general says you go, you're ready and you go.  
12 But I feel compelled to really be very, very  
13 frank with everybody so there's never a  
14 misunderstanding where we are with this. We  
15 don't have subpoenas. We haven't served people  
16 because we can't catch up with everything that's  
17 been happening.

18 So we feel compelled to file this  
19 motion, again, fully cognisant of the fact that  
20 the Court will deny but at least there will be a  
21 record.

22 MR. ROMINGER: Judge, can I add, I  
23 called the Pennsylvania Bar Ethics hotline  
24 yesterday and I relayed the motion and they  
25 called our attention to Rule 17.1 in our duty of

1 competency. I said, well, we can't just say,  
2 Judge, we're not ready but if you're going to  
3 order us, under Rule 1.16 you have a duty to ask  
4 to withdraw ethically if that's what you believe  
5 is the case. They then went on to say to me they  
6 would render perhaps a formal opinion in the  
7 matter but they thought they knew which case it  
8 was and perhaps they would not want to go  
9 formally render a case in the one they thought it  
10 was. Noteworthy even the Pennsylvania  
11 Association Ethics Hotline feels not compelled to  
12 dabble in the Jerry Sandusky case. That's what  
13 was related.

14 I want to make sure the Court is aware  
15 we didn't do it lightly or without seeking  
16 informal counsel through the hotline.

17 THE COURT: Do you want to be heard?

18 MR. McGETTIGAN: Your Honor, I think the  
19 only position we need to take is we're ready for  
20 trial. We're ready to select a jury and the rest  
21 of it is to the Court.

22 THE COURT: This case has been on track  
23 for this trial date since at least January. It's  
24 no surprise to anybody. I never ever suggested  
25 or made any indication that there would be a

1       continuance, except as requested by Judge Feudale  
2       and as a courtesy to him. I have never, I do not  
3       believe, misled or given any indication that I  
4       had any intention of scheduling this case except  
5       when it was scheduled and we're going to proceed.

6               Now, phase one if the jury is ready to  
7       go. I don't know if they're all here.

8               MS. ISHLER: I haven't had a chance to  
9       go down and check on that.

10              THE COURT: Do you want to be present  
11       when I make these remarks to the jury? You're  
12       certainly welcome. Nothing secret about it  
13       obviously. I'm not going to introduce you at  
14       that point.

15              MR. McGETTIGAN: Does the Court have a  
16       preference? If Mr. Amendola wishes, feels that  
17       he should be present but if the Court has a  
18       preference.

19              THE COURT: I have no preference but you  
20       may want to be there. It's going to be on the  
21       record. I'm not going to introduce you at that  
22       point. I'll wait to get that at phase two.  
23       Mr. Sandusky can be present. A place for you to  
24       sit.

25              MR. McGETTIGAN: The only thing I would

1 say is if counsel and defendant would be present,  
2 other than that we're at the Court's discretion.

3 MR. AMENDOLA: The only reason I would  
4 like to be present is because this is a first  
5 impression for me.

6 THE COURT: Sure.

7 MR. AMENDOLA: And I certainly trust the  
8 Court and no issue. It's not a the matter of  
9 seeing what's going on for appeal purposes. It's  
10 an education. It's a once-in-a-lifetime  
11 opportunity to see how this proceeds.

12 THE COURT: I think it's probably a good  
13 idea for you to be there. I'm going to require  
14 it is all.

15 MR. AMENDOLA: Your Honor, may we file  
16 this under seal, these motions?

17 THE COURT: Yes.

18 MR. AMENDOLA: Again, I don't want this  
19 to leak out. The last thing really I want is any  
20 other problems to arise.

21 We have no intention discussing this  
22 with the media what we filed here. That's why  
23 we're doing it here.

24 MR. McGETTIGAN: We're gagged.

25 THE COURT: Okay. Just noted it's filed



1 under seal and hand note an order on it that it  
2 was denied.

3 MR. AMENDOLA: There's a copy if you  
4 want it time stamped in pursuant to the  
5 procedure. You can take sufficient copies. You  
6 probably need two copies for the Court -- for the  
7 Prothonotary because there are two separate court  
8 numbers. We have a copy for the attorney general  
9 folks.

10 E N D O F P R O C E E D I N G S

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## C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me upon the hearing of the within matter, and that this copy is a correct transcript of the same.

Date \_\_\_\_\_ Patricia A. Grey, RPR  
Official Reporter

## A P P R O V A L O F C O U R T

The foregoing record of the proceedings had upon the hearing in the within case, upon review and approval of counsel, is hereby approved and directed to be filed.

Date \_\_\_\_\_ John M. Cleland, Senior Judge  
Specially Presiding