

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 (Jury Trial)  
10 (Day 5)

11 BEFORE: John M. Cleland, Senior Judge

12 DATE: June 18, 2012

13 PLACE: Centre County Courthouse  
14 Courtroom No. 1  
15 102 South Allegheny Street  
16 Bellefonte, PA 16823

17 APPEARANCES:

18 FOR THE COMMONWEALTH:  
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21 FOR THE DEFENDANT:  
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1 P R O C E E D I N G S

2 THE COURT: Good morning. We'll be in  
3 session. You can be seated.

4 MR. McGETTIGAN: Good morning, Your  
5 Honor.

6 THE COURT: Is the arrangement that we  
7 discussed about motions still the plan for this  
8 morning?

9 MR. AMENDOLA: Yes.

10 MR. FINA: I believe so, Your Honor.

11 THE COURT: Pursuant to a discussion  
12 with counsel over the weekend, we have agreed  
13 that the Commonwealth has one additional short  
14 witness?

15 MR. McGETTIGAN: Yes, Your Honor.

16 THE COURT: And that that witness will  
17 be called at 10:00 o'clock to accommodate the  
18 jury that we said would come in at 10:00 o'clock;  
19 that in anticipation that the Commonwealth would  
20 then be resting; and that the testimony of that  
21 witness will not impact any of the motions that  
22 the defense would be making at the close of  
23 Commonwealth's case; that we'll proceed with  
24 those motions now.

25 MR. McGETTIGAN: I believe that to be

1 the case, Your Honor, yes. I know that's what we  
2 discussed absolutely.

3 THE COURT: That's still the  
4 understanding?

5 MR. AMENDOLA: Yes, Your Honor.

6 THE COURT: Okay. Go ahead.

7 MR. ROMINGER: Your Honor, on behalf of  
8 Mr. Sandusky, several motions to make. First  
9 involves non-specificity on certain charges and  
10 the vagueness violating due process.

11 On Information 2421 which is Alleged  
12 Accusers 9 and 10, counts 9 through 12, and on  
13 the other information which is counts 1 through  
14 6, Accuser 1; counts 12 through 15, Accuser 3;  
15 counts 16 through 23, Accuser 4; 24 through 27,  
16 Accuser 5; and 32 through 35, Accuser 7. We  
17 believe the *Devlin* case applies. And I'll bring  
18 more recent *Commonwealth v Brooks*. There the  
19 Court denied the *Devlin* style challenge. One of  
20 the things that the majority did on the center's  
21 consent was point out that the defendant never  
22 explained how those things were prejudicial in  
23 that case.

24 In this instance, Your Honor.  
25 Mr. Sandusky kept a very professional schedule.

1 He traveled with the football team. There are  
2 many records of that. He traveled for The Second  
3 Mile. There are many records of that. He was  
4 known to many people in the community, and there  
5 were many witnesses who we would bring forward  
6 with potential alibis and could bring forward to  
7 show an account for his whereabouts on many, many  
8 occasions.

9 It's very difficult to defend when the  
10 charges include long periods of time without  
11 specific information about when and where they  
12 occurred and generalized over long periods of  
13 time. I believe one witness said it was every  
14 weekend over four years.

15 On Accuser 1, you're looking at an  
16 approximately four-year, three-month time frame.  
17 On Accuser 3, you're looking at a  
18 two-and-a-half-year time frame. On Accuser 4,  
19 you're looking at approximately a four-year time  
20 frame. Accuser 7, one year, two months. Accuser  
21 9, three and a half years. These are  
22 approximations based on the testimony but more  
23 particularly based on the Bill of Particulars as  
24 amended. Accuser 10, one year, ten months.

25 So on each of those counts, we make a

1 challenge that they were not specific and too  
2 vague under due process even as presented in the  
3 Commonwealth's case in chief and ask that you  
4 would arrest judgment at this point on them or at  
5 least dismiss them.

6 In terms of specific factual allegations  
7 and general sufficiency arguments as opposed to  
8 the due process argument that I just made, on  
9 Accuser No. 2, who did not testify but brought in  
10 by circumstantial evidence, the testimony you  
11 have in front of you of Mr. McQueary, at best in  
12 light of most favorable to the Commonwealth,  
13 would sustain indecent assault and subsequent  
14 charges -- and I'll come back to separate issues  
15 with that -- if you take them at face value  
16 because he says he didn't see penetration. He  
17 didn't see genitals. Therefore, IDSI which  
18 requires penetration in this instance, however  
19 slight, would not have been proven -- could not  
20 be proven beyond a reasonable doubt without  
21 speculation by the jury.

22 Now, as to all the charges which are  
23 count 7 through 11, involving Accuser No. 2, we  
24 also have a problem because the charges are  
25 aged-based charge and to allow the jury to

1 speculate to the age of the individual involved,  
2 based on this record, would not be appropriate.  
3 Basically, Your Honor, he says that he believes  
4 it to have been a boy or younger male of various  
5 ages. He's a lay witness. His testimony was not  
6 bolstered by a doctor or other person using a  
7 Tanner scale, using any other indicia that we  
8 use, for instance, in sexual exploitation of  
9 children cases or if child pornography is  
10 involved and the age of the victim is established  
11 through competent medical testimony.

12 I believe even agrees that they were in  
13 the shower. It was wet. He's not exactly sure  
14 of the age of what he saw. As a result you would  
15 have to allow the jury to speculate as to the age  
16 of that person. I ask the Court to take judicial  
17 notice as well that puberty is an uncertain  
18 target, and it's possible to be 16 and still be  
19 prepubescent. As a result, without medical  
20 testimony to exclude those possibilities  
21 described this child based on that testimony and  
22 based on the testimony itself, an aged-based  
23 offense would fail.

24 I'd also make that same argument as to  
25 Accuser No. 8. I would concede that the raw

1 testimony doesn't allow to make a similar  
2 challenge on the IDSI but all charges on Accuser  
3 8 which are counts -- the Court's indulgence for  
4 a moment. I believe 36, 37, 38, 39, and 40, it  
5 would fail for the same reason. You would have  
6 to speculate as to the age. Again, there isn't  
7 proof such that a jury can conclude that beyond a  
8 reasonable doubt.

9 As to No. 8, I would also renew the  
10 argument about the excited utterance and its  
11 admissibility. I believe the *Keys* case which  
12 came subsequent to the *Barnes* case, there the  
13 police officer.

14 THE COURT: Want to give me a cite for  
15 that?

16 MR. ROMINGER: I wrote it down, Your  
17 Honor. I Shepardized it. It's one of the only  
18 citing case to the *Barnes* case. I apologize. I  
19 don't think I have a cite in front of me.

20 There a police officer encountered  
21 somebody approximately 30 minutes after an  
22 incident but there was confirming evidence. She  
23 had said that there was a knife put to her  
24 throat. For instance, a knife was found at the  
25 location where the knife was supposedly put to



1 her throat. So there were other indicia that  
2 that had happened. I believe the *Keys* case  
3 stands for the proposition that the indicia  
4 themselves have to arise out of the observations  
5 of the person seeing or hearing the excited  
6 utterance.

7           However, in the *Keys* case, the Court  
8 actually found it didn't qualify as an excited  
9 utterance because there wasn't sufficient indicia  
10 that some reflection had occurred. In other  
11 words, because the police officer observed over  
12 some period of time and that takes us 30 minutes  
13 which would be longer than the optimistic time  
14 frames in this case, most optimistic for the  
15 defense, that you couldn't know from the excited  
16 utterance itself that there hadn't been time for  
17 any amount of reflection.

18           In this case the janitor comes out some  
19 minutes after the man and the boy come out.  
20 That's the testimony. Maybe five minutes, maybe  
21 ten minutes but some period of time. He doesn't  
22 run out of the locker room and blurt out an  
23 excited utterance. We would believe, therefore,  
24 the Commonwealth like in the *Keys* case haven't  
25 disproved the possibility that there was some

1 reflection before he made the excited utterance.

2 Your Honor, I'm prepared to get you a  
3 cite if I have a moment after the argument.

4 THE COURT: Okay.

5 MR. ROMINGER: That's No. 8.

6 On Accuser No. 6, I believe he indicates  
7 at some point he blacked out, doesn't really  
8 remember what contact occurred or didn't occur,  
9 if I have the right accuser number for that.

10 THE COURT: That's correct.

11 MR. ROMINGER: Which would be counts 28,  
12 29, 30, and 31. If he's unable to say what  
13 happened, I think count 28 fails, count 29 fails,  
14 count 30 fails, and count 31 fails.

15 On some of the other accusers, there's  
16 enough technical information for the Court to go  
17 forward, so I won't belabor those points.

18 I will, however, point out -- I want to  
19 come back to the *Devlin* argument. One of the  
20 issues is how can we prove these things? Well  
21 Accuser No. 5 while that charge is probably  
22 enough to get through for the moment, we'll be  
23 presenting evidence that while he says this  
24 happened in the Lasch Building in 2001 in a very  
25 narrow time frame between his birthday on 8/8 and

1 9/11, there will be evidence and testimony that  
2 Mr. Sandusky did not have access to the Lasch  
3 building during that time period.

4 THE COURT: Well, can't make that  
5 argument now.

6 MR. ROMINGER: I'm not making that  
7 argument now but I'm pointing out that that's the  
8 only -- on the one charge where they were  
9 particular enough, we're able to buttress with  
10 defense evidence and that's the *Devlin* problem we  
11 have with this case. With these long time  
12 periods, we simply can't muster -- and given the  
13 short time frames we have had -- the exact  
14 whereabouts of Mr. Sandusky on every occasion.

15 That's just a good example, however, of  
16 how we would have been able to narrow time  
17 frames, present evidence, and I believe that will  
18 be borne out in our case. I offer that only by  
19 comparison because again in this *Brooks* case, the  
20 majority seems to make do of the fact that the  
21 defense didn't point out what kinds of things  
22 they might have been able to do had they had more  
23 to particularity. That's why I offer it to the  
24 Court for that.

25 So, Your Honor, with that in mind I ask

1 that you dismiss 2, 8, and 6 in toto and as well  
2 as the *Devlin* argument on everyone else. But if  
3 you don't dismiss 2 in toto, I would ask the IDSI  
4 be dismissed for lack of sufficient evidence.

5 Your Honor, I believe that's the  
6 totality of our argument. If the Court has any  
7 questions, I would be happy to answer them.

8 THE COURT: That's it?

9 MR. ROMINGER: I don't believe -- I  
10 believe I have addressed all of the accusers with  
11 particularity or with the general *Devlin*  
12 argument.

13 THE COURT: Okay.

14 Mr. McGettigan.

15 MR. McGETTIGAN: Mr. Fina, Your Honor.

16 THE COURT: Mr. Fina.

17 MR. FINA: Good morning, Judge.

18 THE COURT: Good morning.

19 Your Honor, I'll start and hopefully  
20 I'll be able do these in the same order in which  
21 they were presented. I'll start with the  
22 non-specificity argument which resides primarily  
23 *Devlin*. And I think *Devlin* itself doesn't  
24 support the proposition that has been posited  
25 here. I don't want to bore Your Honor with this.

1 THE COURT: Make your record.

2 MR. FINA: But I think there's, you  
3 know, if I can just read a few sentences from  
4 *Devlin*, I think it really encapsulates what we  
5 really have here.

6 In that case, which I think the Court is  
7 well versed in the facts, involved a mentally  
8 handicapped man and who was assaulted on a single  
9 occasion based on its own allegations and the  
10 time span was charged a 14-month time span to  
11 cover a single allegation of, I believe, indecent  
12 assault.

13 The Court wrote in that -- wrote the  
14 pattern of due process is picked out in the facts  
15 and circumstances of each case. Due process is  
16 not reducible to a mathematical formula.  
17 Therefore, we cannot annunciate the exact degree  
18 of specificity in the proof of the date of a  
19 crime which will be required or the amount of  
20 latitude which will be acceptable. Certainly the  
21 Commonwealth need not always prove a single  
22 specific date of the crime. Any leeway  
23 permissible would vary with the nature of the  
24 crime, the age and condition of the victim  
25 balanced against the rights of the accused.

1           There's a fair progeny that follows  
2     *Devlin* as I know the Court knows. If I can just  
3     refer to some of those cases which I think are  
4     really instructional, there is the *Groff* case,  
5     5548 A.2d 1237 which states -- I'm sorry to be  
6     reading so much. But it states case law has  
7     established that the Commonwealth must be  
8     afforded broad latitude when attempting to fix  
9     the date of offenses which involve a continuous  
10    course of criminal conduct. I believe that case  
11    involved sexual assaults against children, Your  
12    Honor.

13           And then, at least from our perspective,  
14    the premiere case that follows *Devlin* is *Niemitz*  
15    and I'm not sure I'm pronouncing that right.  
16    It's N-i-e-m-i-t-z. That's 422 A.2d 1369. And  
17    it is, again, one of these terrible unfortunate  
18    cases, Your Honor, where a child, a young girl,  
19    was serially molested and the Court wrote  
20    there -- in reflecting on *Devlin*, wrote we note  
21    that the Commonwealth would clearly prevail if  
22    the appellate had been convicted of repeatedly  
23    abusing the victim during the summer of 1985.  
24    Case law has established the Commonwealth must be  
25    afforded broad latitude when attempting to fix

1 the date of offenses which involved a continuous  
2 course of criminal conduct.

3 And then that Court went on to say in a  
4 pretty shocking and acerbic way that it would not  
5 serve the ends of justice permit a person to rape  
6 and otherwise sexually abuse a child with  
7 impunity simply because the child has failed to  
8 report in a daily diary the unfortunate details  
9 of her childhood.

10 And, Your Honor, I think without overly  
11 emphasizing this, I think the evidence that's  
12 been presented to this jury and this Court  
13 clearly paints a picture of serial abuse, not  
14 just of one individual but of many of these  
15 victim's, certainly Victim No. 1, Victim No. 4,  
16 Victim 9, Victim 10, and even among indecent  
17 assault cases, Victim 7 and Victim 3 who clearly  
18 fall within the gambit.

19 I don't know, Judge. If you have any  
20 more questions about that issue --

21 THE COURT: (Shakes head side to side.)

22 MR. FINA: Moving on, Your Honor, I  
23 believe the next issue addressed was episode 2  
24 which involves the unidentified victim and the  
25 evidence provided by Michael McQueary. As I

1 understand that challenge beyond the  
2 non-specificity, although it didn't apply to that  
3 because there was a specific date in that case,  
4 Your Honor, the assertion is that that is at best  
5 an indecent assault.

6 And what this comes down to, and I  
7 cannot say that this is not a somewhat novel fact  
8 pattern. I certainly could not find a case  
9 precisely on point, Your Honor. But what we have  
10 here is a classic presentation of evidence in the  
11 sense that it involves both direct evidence and  
12 circumstantial evidence. So we have direct  
13 evidence, Your Honor, for example, from  
14 Mr. McQueary of what he heard and what he saw,  
15 time and place of both the location that these  
16 events occurred, the physical proximity of  
17 Mr. Sandusky, identifies Mr. Sandusky. He talks  
18 about the slapping noises which are consistent  
19 with a sexual act. He talks about what he saw  
20 which was the position of Mr. Sandusky with his  
21 groin area pressed against the buttocks of what  
22 he said was a prepubescent child, a child he saw  
23 in front of Mr. Sandusky, and then he saw walking  
24 out of the shower. So he had, I believe, ample  
25 opportunity to comment on the age.



1           And then we have the circumstantial  
2 aspect, Your Honor, which involves penetration.  
3 There is no question that he cannot provide  
4 direct evidence as to whether or not the  
5 defendant's penis entered the rectum of the  
6 child. However, we have ample circumstantial  
7 evidence, Your Honor, that that is what was going  
8 on.

9           If I can talk a little bit about the  
10 case law in this area, Your Honor. Like I said,  
11 I couldn't find cases with this specific fact  
12 pattern but there are ample cases in the  
13 situation where the victim has been killed  
14 following the sexual assault. And in those  
15 cases, the Court's in Pennsylvania have  
16 repeatedly said that it is sufficient for  
17 circumstantial evidence to prove the offense  
18 where the victim is unavailable because in those  
19 cases they had been murdered. They usually  
20 involve, Your Honor, homicide cases where there  
21 is an accompanying charge, there is a rape or an  
22 IDSI charge, and the Commonwealth presents  
23 evidence of the way the positioning of the body  
24 when it was found, the fact that it was perhaps  
25 not clothed from the waist down and that the legs

1 were found in a certain position. All of that  
2 type of indicia that would be consistent with a  
3 sexual assault having occurred.

4 I can refer the Court to *Commonwealth*  
5 *versus Miller*, 724 A.2d 895. And specifically in  
6 addition *Commonwealth versus Jackson*, 585 A.2d  
7 36. There's plethora of these cases, Your Honor,  
8 involving homicide and subsequent charges that  
9 include rape or IDSI or a variety of those types  
10 of offenses.

11 I would also cite for the Court the  
12 general case law that talks about sufficiency  
13 consistent with physical facts and human  
14 experience. I'm talking about *Commonwealth*  
15 *versus Widmer*, and there are other cases, Your  
16 Honor, but *Commonwealth versus Widmer*, which is  
17 at 744 A.2d 745 and I'm referring to page 751 of  
18 that case. That's a Supreme Court case from  
19 2000. That case talked about that if evidence is  
20 offered by the Commonwealth that contradicts  
21 physical facts or contradicts human experience  
22 and the laws of nature, then it -- by its very  
23 nature it's insufficient. But that if the  
24 evidence provided, albeit circumstantial, is  
25 consistent with physical facts and human

1 experience, then that can argue in favor of  
2 sufficiency. I think that's -- that that's the  
3 situation we have here, Judge.

4 It is certainly within the bounds of  
5 this jury's charge to review these facts, hear  
6 the arguments from both sides as to whether or  
7 not the Commonwealth has met its burden beyond a  
8 reasonable doubt to show penetration and for this  
9 jury based upon the totality of what Mike  
10 McQueary saw, if they believe him, if they --  
11 through their view, lens of his credibility and  
12 determine whether or not what he saw was sodomy  
13 or something else. And I can't speak any more  
14 eloquently I think than Mr. McQueary did. I  
15 don't want to repeat his testimony for the Court,  
16 but he was asked this repeatedly about  
17 penetration. He was extraordinarily candid. He  
18 did not see penetration but he, likewise, said  
19 that everything he saw in his experience was  
20 consistent with one thing and that was sodomy.

21 I don't know if the Court has any  
22 further questions about that?

23 THE COURT: No.

24 MR. FINA: Your Honor, I'll just address  
25 the age issue here in toto.

1           I think that the informations are all  
2 written in a fashion that the Commonwealth  
3 charged that these were children under the ages  
4 of 16 where the perpetrator was four or more  
5 years older. Again, in that case I think -- in  
6 that situation I think it's a weight problem for  
7 the jury. They can weigh the testimony. They  
8 can hear the arguments from both sides as to  
9 whether the Commonwealth has met its burden to  
10 meet those elements and, again, if they believe  
11 what Mr. McQueary saw when he said it was a  
12 prepubescent boy is sufficient, I think that's an  
13 issue for them to decide.

14           I'm not aware of any cases that require  
15 the Commonwealth to provide expert testimony in  
16 this context regarding the age of individuals  
17 that doctors never saw. I mean, the age of a  
18 child is within the realm of every person's  
19 experience and I don't think it's necessary --  
20 there's certainly no legal obligation to provide  
21 an expert to talk to an eyewitness and determine  
22 through that person's statements what the  
23 probable age of the victim was.

24           I think both with Mr. Petrosky and  
25 Mr. McQueary, they were both -- they are both

1 mature adults who can identify through their  
2 everyday experience the age of a child they  
3 viewed. They provided that information and I  
4 think that's sufficient to go to the jury, Judge.

5 On Accuser No. 6, Your Honor, it is the  
6 Commonwealth's recollection that -- and that's  
7 Mr. Konstas -- that he testified about taking a  
8 shower with the defendant shortly after meeting  
9 him. It was not an extensive relationship that  
10 led up to the shower. In the shower he was  
11 hugged. He recollected feeling the defendant's  
12 chest hair on his back. He said that he -- the  
13 defendant soaped him, lifted him while naked to  
14 the showerhead, and I believe he said he  
15 remembered his feet or some part of him coming in  
16 contact with defendant's private parts in front.

17 Your Honor, in review of the indecent  
18 assault case log -- I just want to go through  
19 some of these cases with you -- there really are  
20 extensive cases on this issue of touch and the  
21 location of the touches, what parts of the body  
22 are adequate to provide an indecent assault.

23 Frankly, I was surprised in looking at  
24 this case law there's so much discussion about  
25 this. There's all these cases about whether or

1 not the touching has to be on a sensate or  
2 non-sensate part of the body and the Superior  
3 Court has taken a pretty hard view of that.

4 In looking at the cases, Your Honor, I'm  
5 just going through these in no particular order.  
6 We have *Commonwealth versus Evans*, 901 A.2d 528.  
7 That's a Pennsylvania Superior Court from 2006  
8 where the defendant hugged a minor and kissed her  
9 on the mouth. That was viewed as sufficient.

10 *Commonwealth versus Capo*, C-a-p-o, 722  
11 A.2d 1126. That's a 1999 Superior Court case  
12 where the defendant caressed a minor's back,  
13 shoulders, and stomach over her down coat. She  
14 was wearing a coat, and he then alleged that he  
15 had touched her in a way that met the statute and  
16 the Superior Court ruled that that's sufficient.

17 In *Grayson*, and this is the case that  
18 has this extensive discussion about sensate  
19 versus non-sensate parts of the body and they --  
20 the Court in that case found that the whole  
21 notion is specious. In that case the defendant  
22 had brushed his penis under the under side of jaw  
23 of an unconscious woman and the Court analyzed  
24 that it didn't matter whether she was conscious  
25 or unconscious, the very act itself is a

1 violation.

2 In *Hawkins*, there's an extensive  
3 discussion that's 614 A.2d 1198, a '92,  
4 Pennsylvania Superior Court case about touching  
5 under the indecent assault statute is not limited  
6 to the use of a hand or finger. It can be  
7 virtually any other part of the body.

8 *Commonwealth versus Fisher*, Your Honor,  
9 and this is a very recent case, 2012 West Law  
10 cite, 210 6378. It's a 2012 Superior Court case.  
11 The Superior Court found that touching the backs  
12 of the legs of a minor, I believe from the ankle  
13 up to below the buttock, and this was a child  
14 under 13, was an indecent assault.

15 And finally, Your Honor, I would like to  
16 refer the *Commonwealth to Donnelly*. There is a  
17 Court of Common Pleas decision out of Lawrence  
18 County, Judge Cox, and it's -- the West Law cite  
19 is 2010 West Law 5582905. This was a case where  
20 the defendant had the habit of inviting boys  
21 between the ages of, I believe, 12 and 15 into  
22 his house. He would give them treats and they  
23 would sit and watch TV together and while  
24 watching TV, he would ask them to remove their  
25 socks and shoes and he would massage their feet.

1 Nothing further. He would not -- he would be  
2 fully clothed. The child would remain fully  
3 clothed, and he would simply massage the feet of  
4 the child. The Court found in that case that  
5 that met the definition of indecent assault; that  
6 the jury could determine that he was doing that  
7 for his own sexual gratification. He did not  
8 expose his private parts at any point. He had  
9 not discussed whether or not he was being  
10 sexually gratified with the children about it.  
11 But they found that in the totality of the  
12 circumstances in that case that it was within the  
13 province of a jury to make that determination.

14 That opinion was affirmed by the  
15 Superior Court, Your Honor. It's a table  
16 affirmation but they affirmed that opinion at 11  
17 A.3rd 1016.

18 In summation, Judge, it's a novel  
19 situation. I don't have a case that says that a  
20 defendant showering with a boy in the context of  
21 a very early initial relationship with him, no  
22 familial history, no specific permission to be  
23 doing that, wherein he's hugging the child. He's  
24 soaping and washing the child. He picks the  
25 child up so the child comes in contact with his



1 genitalia, I don't have a case that says that  
2 that's indecent assault. I believe, Your Honor,  
3 based upon these cases that I have cited and the  
4 very broad latitude that the appellate courts  
5 have given to juries in the indecent assault  
6 realm that this is -- that that's a case that can  
7 go to the jury. Arguments can be made about  
8 beyond a reasonable doubt and weighed. We can  
9 put it safely in their province to decide.

10 Any other questions, Judge?

11 THE COURT: (Shakes head side to side.)

12 MR. FINA: Your Honor, just one other  
13 thing. There is count 33 which is a count that  
14 applies to Victim Struble. We will be  
15 withdrawing that count. In reviewing this  
16 matter, and reviewing the testimony of  
17 Mr. Struble, that count and its application  
18 statutorily would not apply. His testimony was  
19 that the assaults occurred I believe '95 and '96  
20 and that -- the application of that offense did  
21 not arise under that statute until 1997. The  
22 statute wasn't promulgated until 1997. So that  
23 we withdraw on our own.

24 Thank you, Your Honor.

25 THE COURT: Let's get back to No. 6,

1 Victim 6.

2           These are my notes from the testimony  
3 and basically what I heard. I don't purport to  
4 say that this is necessarily the accurate  
5 statement but. He told jokes. He made me laugh.  
6 He started to tickle me, the Tickle Monster,  
7 growling sound, chest in his face, lathered my  
8 back, lifted me to the showerhead. I cannot say  
9 what part of his body touched my body. I did not  
10 think that day that anything unusual happened.  
11 It was just awkward. I cannot recall if he ever  
12 touched my sexual parts. It was not groping his  
13 private area. He didn't make me do that. I  
14 don't know if he had an erection.

15           That's my recollection. Do you think  
16 you still got enough?

17           MR. FINA: I think -- Your Honor, my  
18 recollection is that there was -- it was either  
19 on cross-examination or direct following up on  
20 that the statement that he believes his feet,  
21 when he was picked up, may well have come in  
22 contact the defendant's privates. And then he  
23 also spoke about the hug and described how the  
24 front of the defendant was fully pressed against  
25 his back. He remembers the chest hair.

1           So that would be -- those would be the  
2 facts, Your Honor, that we believe, in the  
3 totality of the circumstances, what extended to  
4 an indecent assault.

5           THE COURT: All right.

6           MR. ROMINGER: Your Honor, briefly.

7           THE COURT: Yes.

8           MR. ROMINGER: First of all, I believe  
9 the testimony that he gave was that he believed  
10 he was picked up in the shower and given an idea  
11 of how high he was picked up, he said he believed  
12 his feet were near or level with the defendant's  
13 genitalia I believe he said they touched.

14           I think that's significant and the  
15 Commonwealth is trying to say that foot contact  
16 with his genitalia is significant in the case.

17           I also, in review of my notes, realized  
18 I did forget to raise one other issue in court.  
19 We believe that the Commonwealth has not proven  
20 the jurisdiction of these events nor the age of  
21 the defendant in any portion of their case in  
22 chief. There's no testimony that any of these  
23 locations are in Centre County, I believe. There  
24 was no testimony as Mr. Sandusky's age and,  
25 therefore, we believe the charges fail on

1 age-based offenses. Without his age in the  
2 record, the Commonwealth has failed to show he's  
3 four or more years older. That's all.

4 THE COURT: Any reply to that?

5 MR. FINA: Yes, Your Honor. It was the  
6 Commonwealth's understanding that based on  
7 discussions with Attorney Amendola, we were going  
8 to have a stipulation to the defendant's age.  
9 We'll have to go through that. I maybe  
10 misunderstood that.

11 On Victim 6, Your Honor, I would just  
12 follow up with a couple things. And that is that  
13 the awareness of the child I think has counter  
14 intuitive as this may seem, if the awareness of  
15 the child as to the nature of the offense is not  
16 necessary.

17 THE COURT: I agree with that.

18 MR. FINA: Okay.

19 THE COURT: I'm not suggesting that.  
20 I'm just sort of repeating his testimony.

21 MR. FINA: Okay. The only thing -- and  
22 I neglected to add, Your Honor, is the testimony  
23 of Police Officer Schreffler and the statements  
24 that the defendant made to the -- Mr. Konstas'  
25 mother. Again, I think that there is

1 circumstantial evidence, Your Honor, that  
2 something more happened here than simply an  
3 inadvertent touching.

4 I have nothing further absent any  
5 questions by the Court.

6 THE COURT: First with regard to the  
7 non-specificity of the charges, it's no secret I  
8 have been concerned about this from the beginning  
9 when we had the first argument on the -- on  
10 whether the Bill of Particulars was sufficiently  
11 specific. There were some very, very broad  
12 representations made by the Commonwealth about  
13 when these events happened and since then,  
14 however, there has been an amended Bill of  
15 Particulars filed, an amended information, and I  
16 believe that that now meets the standards of due  
17 process, although early on I certainly was not  
18 persuaded that that was the case.

19 Insofar as there are -- is evidence of  
20 Mr. Rominger mentioned, I think Victim 9 who said  
21 he went there every weekend for four years, that  
22 in and of itself should be sufficient to permit  
23 the defendant to establish an alibi even though  
24 it is over a very broad period of time and, of  
25 course, it also goes to the victim's credibility.

1           Concerning the issue of age, it's my  
2 understanding -- I can double check this but that  
3 on the charges that have been specifically  
4 mentioned, they refer to less than 16, and I  
5 think there is sufficient evidence from which the  
6 jury can assess that question.

7           Concerning Victim 6 and the sufficiency  
8 of the evidence, I will at this point deny that  
9 motion.

10           Similarly motions to dismiss because  
11 there's no proof of location within Centre  
12 County, I'll dismiss that.

13           And the question of proof of defendant's  
14 age will also be dismissed based on counsel's  
15 previous stipulation.

16           Concerning Victim No. 2 and the  
17 testimony of Mr. McQueary and whether that is  
18 sufficient, I think there is sufficient  
19 circumstantial and direct evidence to permit the  
20 jury to assess what crime, if any, happened if  
21 they believe Mr. McQueary's testimony.

22           I think that's all the issues that were  
23 raised or did I miss anything?

24           MR. McGETTIGAN: I don't think so, Your  
25 Honor.

1 MR. ROMINGER: I don't think so, Your  
2 Honor.

3 THE COURT: Okay.

4 We'll be adjourned until 10:00 o'clock.  
5 If the jury is here, we'll resume at that time.

6 Thank you.

7 (Whereupon, a recess was taken.)

8 THE COURT: We'll be in session. Bring  
9 the jury in please.

10 (Whereupon, the jury was escorted into  
11 the courtroom.)

12 THE COURT: Good morning, ladies and  
13 gentlemen.

14 When you dispersed on Friday or  
15 Thursday, I talked to you about, again, the need  
16 to avoid any conversations with anyone or to be  
17 exposed to any newspaper, radio, or television  
18 accounts or to avoid expressing an opinion either  
19 by texting, writing, or any other way, or  
20 conversing. I'll remind you of that obligation,  
21 and if any of these things might have happened,  
22 I'll instruct you to report that to Ms. Gallo who  
23 is obviously your juror contact person, and then  
24 she'll report that to me, and we'll take it up  
25 later. But that is your continuing obligation

1 under your oath to report if that happened.

2 We are at the stage in the trial where  
3 the Commonwealth has one very brief witness to  
4 present this morning and then some stipulation of  
5 facts which they want to place in evidence, and  
6 then we will turn the case to the defense.

7 Mr. McGettigan.

8 MR. McGETTIGAN: Thank you, Your Honor:

9 Ms. Quidetto, Angella Quidetto.

10 Whereupon,

11 ANGELLA QUIDETTO

12 was called as a witness and having been duly  
13 sworn, was examined and testified as follows:

14 MR. McGETTIGAN: May I proceed, Your  
15 Honor?

16 THE COURT: Yes.

17 MR. McGETTIGAN: Thank you.

18 DIRECT EXAMINATION

19 BY MR. McGETTIGAN:

20 Q. Ms. Quidetto, how are you related to --

21 THE COURT: Let's get her name for the  
22 jury.

23 MR. McGETTIGAN: Oh, I beg your pardon.  
24 I thought --

25 BY MR. McGETTIGAN:



1 Q. Could you state your full name please?

2 A. Angella Marie Quidetto.

3 Q. And how are you related to Sabastian  
4 Paden?

5 A. He is my son.

6 Q. And can you tell the ladies and  
7 gentlemen of the jury where you were living back  
8 in 2000 or 2005 and/or after that?

9 A. In a trailer in McClure, P.A.

10 Q. Who did you and Sabastian live with?

11 A. It was just us.

12 Q. Where was Sabastian's father then?

13 A. We don't know.

14 MR. McGETTIGAN: Your Honor, may I  
15 approach the witness?

16 THE COURT: Yes.

17 MR. McGETTIGAN: Thank you.

18 BY MR. McGETTIGAN:

19 Q. Ms. Quidetto, you have been handed three  
20 photographs that have been marked as Commonwealth  
21 101, 102, and 103. Do you have them in front of  
22 you?

23 A. Yes, I do.

24 Q. Okay. Do you recognize anybody in those  
25 pictures?

1           A. I recognize my son.

2           Q. And I'll ask you to take a look at the  
3 last one which is not a picture. It looks like  
4 the back of the second one?

5           A. Right.

6           Q. Is that correct?

7           MR. McGETTIGAN: Your Honor, may I  
8 publish the photos.

9           THE WITNESS: This one?

10          MR. ROMINGER: No objection, Your Honor.

11          MR. McGETTIGAN: May I have 101 first?

12 BY MR. McGETTIGAN:

13          Q. Okay. Where is Sabastian's there on  
14 C-101, Ms. Quidetto?

15          A. He is the end child with a tie dye  
16 shorts.

17          Q. Okay. Thank you. May I have 102  
18 please?

19                   And Sabastian again?

20          A. Yes, it is.

21          Q. Okay. If we could have 103?

22                   And that's the back of the picture?

23          A. Yes.

24          Q. Thank you very much, Ms. Quidetto.

25          MR. McGETTIGAN: May I approach the

1 witness once again so I don't leave these up  
2 here, Your Honor?

3 Thank you, Your Honor.

4 BY MR. McGETTIGAN:

5 Q. Ms. Quidetto, did you send Sabastian to  
6 Second Mile camp?

7 A. Yes, I did.

8 Q. He went three or four years?

9 A. Yes, he did.

10 Q. Okay. And did you have occasion while  
11 at one of those camps to come in contact with the  
12 defendant, Jerry Sandusky?

13 A. Yes, I did.

14 Q. Was that in Sabastian's first year or  
15 second year or after that?

16 A. It was his second year.

17 Q. Okay. And how did you happen to meet  
18 the defendant?

19 A. He just walked over to me and introduced  
20 himself to myself.

21 Q. Do you recall what he said?

22 A. He said that he was interested in  
23 getting together with my son and taking him to do  
24 things with him.

25 Q. What did you think of that?

1 A. I thought that was great.

2 Q. How come?

3 A. Well, because he was Jerry Sandusky. He  
4 was a very important person. He was in charge of  
5 this camp.

6 Q. Okay. And so you thought it would be a  
7 good idea?

8 A. Yeah, I did.

9 Q. Okay. And were you working at the time?

10 A. Yes, I was.

11 Q. What kind of work were you doing?

12 A. I manage --

13 Q. You don't have to give us the name of  
14 the location. What kind of work? Just tell us  
15 what you were doing.

16 A. Just tell you -- I manage a bar and then  
17 I work at another establishment.

18 Q. Okay. And did you have two jobs at the  
19 time?

20 A. Yes, I did.

21 Q. Okay. So you were working a lot?

22 A. Yeah, all the time.

23 Q. Okay. And when you were working after  
24 Sab got to be 9 or 10 years old, was he alone a  
25 fair amount?

1 A. Yeah, he was alone a good bit.

2 Q. Is that one of the other reasons that  
3 you thought it would be a good idea?

4 A. Yes.

5 Q. Okay. And how long after the first time  
6 that you met the defendant at The Second Mile  
7 camp was it that the defendant came to pick up  
8 Sab?

9 A. A couple weeks.

10 Q. And where did he pick him up at?

11 A. The first time he picked them up, I met  
12 him at the Eutaw House. It's pretty --

13 Q. What's the Eutaw House?

14 A. It's over -- it's at the bottom of the  
15 mountain. When you go over the mountain, it's at  
16 the bottom of the mountain.

17 Q. So on that occasion the defendant did  
18 not come to your house to get Sab?

19 A. No.

20 Q. Okay. And now, you'll excuse me. Your  
21 son's first name is Sabastian?

22 A. Yes.

23 Q. Okay. And he is commonly addressed and  
24 I'm addressing him to you as Sab?

25 A. Yes.

1 Q. Okay. Is that the name he likes to go  
2 by?

3 A. Yes.

4 Q. Now, when the defendant came on that  
5 first occasion and took Sab -- when he came to  
6 the -- met him at the Eutaw House, did he go and  
7 come back the same day or did he stay more than  
8 one night?

9 A. No, he stayed the weekend.

10 Q. Okay. And did he stay on just that one  
11 weekend or another or many more than that after  
12 that?

13 A. There were a lot of occasions.

14 Q. Okay. And did the defendant -- did you  
15 always meet the defendant at the Eutaw House or  
16 sometimes other places?

17 A. There were other places I would meet  
18 him.

19 Q. Okay. Now, did you ever have occasion  
20 to go to the defendant's house on -- once or more  
21 than once?

22 A. I went to his house twice.

23 Q. Okay. And the first time?

24 A. The first time was -- the first time --  
25 the first time Sab called me real late at night

1 and he was really sick and I went over and I got  
2 him and that's when I first went to Jerry's house  
3 was to pick my son up there.

4 And then the second time I went was to  
5 get tickets to a football game.

6 Q. Okay. And did Sab ever complain to you  
7 about having to go to the defendant's house?

8 MR. ROMINGER: Objection. Hearsay.

9 THE COURT: The question was did he ever  
10 explain?

11 MR. McGETTIGAN: No. Complain.

12 THE COURT: Complain?

13 MR. McGETTIGAN: Yes.

14 THE COURT: Sustained.

15 BY MR. McGETTIGAN:

16 Q. Did he ever express that he didn't want  
17 to go to the defendant's house?

18 MR. ROMINGER: Objection. Hearsay.

19 THE COURT: Overruled.

20 BY MR. McGETTIGAN:

21 Q. You can answer it.

22 A. Yes.

23 Q. And when he did that, what would you do?

24 A. I would ask him why. He would just say  
25 he didn't feel like it, and I would just make him

1 go anyway.

2 Q. Did you make him go more than once?

3 A. Yes.

4 Q. Did Sab ever complain to you about the  
5 contact that he had with the defendant?

6 MR. ROMINGER: Objection.

7 THE COURT: Sustained.

8 By MR. McGETTIGAN:

9 Q. Ms. Quidetto, were you here last  
10 Thursday with Sabastian?

11 A. I was here.

12 Q. And let me back up to something else.  
13 Did Sabastian's -- did your son's physical  
14 condition change during the time that he's gone  
15 to the defendant's home?

16 A. Yes.

17 Q. Tell the jury about that.

18 A. He had a lot of stomach problems. He  
19 was sick a lot. He had behavior issues. His  
20 sleep patterns were very different. His school  
21 work was very difficult.

22 Q. Was this during the time that you were  
23 telling him he had to go to see -- be with the  
24 defendant?

25 A. Yes.



1 Q. And did you ever go to anyone else --  
2 after you talked with Sabastian about the  
3 defendant and the contact he had with him, did  
4 you ever go to anyone at school?

5 A. I did talk to his therapist. Sab had  
6 been to a therapist all through grade school and  
7 he had some partial through middle school.

8 Q. Did you ever bring up to anyone at the  
9 school the contact that the defendant had with  
10 Sab?

11 A. Yeah, Mrs. Short knew.

12 Q. Besides her?

13 A. No. Just his counselor.

14 Q. Did you ever speak to Mr. Spickle?

15 A. Spichler.

16 Q. Yes?

17 A. Yes, that was his counselor through the  
18 school.

19 Q. And what did Mr. Spichler?

20 MR. ROMINGER: Objection. Hearsay.

21 MR. McGETTIGAN: It's not offered for  
22 the truth, Your Honor.

23 THE COURT: What's the relevance then?

24 MR. McGETTIGAN: It explains this  
25 witness's behavior and Sabastian's behavior, Your

1 Honor, absolutely without being offered for the  
2 truth.

3 THE COURT: Sustained.

4 MR. McGETTIGAN: Your Honor, may I see  
5 you at sidebar?

6 (Whereupon, the following discussion was  
7 held at sidebar:)

8 THE COURT: Obviously offered for the  
9 truth.

10 MR. McGETTIGAN: No, it's not, Your  
11 Honor.

12 Your Honor, it is, in fact, offered --  
13 Sabastian's told his mother that Jerry was  
14 touchy-feely. Mrs. Quidetto went to the  
15 counselor and said should I do something about  
16 it? The guy said to her don't complain. You  
17 really don't want to bother someone of that  
18 stature. It's not offered for the truth. It's  
19 not saying -- it just explains her behavior.

20 THE COURT: Why is it relevant? What's  
21 her behavior relevant to?

22 MR. McGETTIGAN: It's why she didn't  
23 report anything and why Sabastian's didn't report  
24 anything earlier.

25 MR. ROMINGER: Then it's offered for the

1 truth of the matter asserted.

2 THE COURT: Sustained.

3 (End of sidebar discussion.)

4 BY MR. McGETTIGAN:

5 Q. Mrs. Quidetto, at the time that  
6 Sabastian was going to the defendant's house, did  
7 the defendant call you all the time to ask for  
8 permission for Sab to go to his home?

9 A. No.

10 Q. Who did he call?

11 A. He would call Sabastian.

12 Q. And were you at work when that happened  
13 sometimes?

14 A. Sometimes, yes.

15 Q. Okay. And how would you find out that  
16 Sabastian was going with the defendant?

17 A. Sabastian would call me.

18 Q. And say?

19 A. And say --

20 MR. ROMINGER: Objection. Hearsay.

21 THE COURT: Overruled.

22 THE WITNESS: Can I answer that?

23 BY MR. McGETTIGAN:

24 Q. Yes.

25 A. He would call me and say, Mom, I'm going

1 to Jerry's this weekend.

2 Q. And were you here on Thursday when  
3 Sabastian testified?

4 A. Yes, I was.

5 Q. Were you in court?

6 A. No.

7 Q. What time did you and Sabastian get  
8 here? I take it you were in another room?

9 A. Yeah, we got here at 10:30 in the  
10 morning.

11 Q. Okay. And do you know what time  
12 Sabastian testified?

13 A. I think it was around 2:00, 2:30.

14 Q. Okay. And I'm going to ask you. Did  
15 you ever ask Sabastian exactly what happened to  
16 him at the defendant's home?

17 A. No, I did not.

18 Q. Why not?

19 A. Because I didn't really want to hear  
20 what happened to him. It's not that I didn't  
21 want to hear. I just knew it would be tough for  
22 him to tell me.

23 Q. Has anyone else ever told you what  
24 Sabastian said?

25 A. No.

1 Q. Did the defendant ever -- did Sabastian  
2 at some point express to you that he did not wish  
3 to go to the defendant's home any more?

4 A. Yes.

5 Q. What did you do then? The first time  
6 that he said he didn't want to go, what did you  
7 do?

8 A. He was little, I made him go. And then  
9 the older he got, he just said, Mom, I just don't  
10 want to go any more, and I'm like, well, that's  
11 your choice. That's your decision. You don't  
12 have to go if you don't want to.

13 Q. Over the course of two or three years,  
14 how often would Sab go to the defendant's home?

15 A. He would go a couple times a month.

16 Q. Almost every month?

17 A. Yeah, just about every month. Not  
18 all -- I would say from late spring till maybe it  
19 would stop, like, around Christmas time or so.  
20 So it was mostly all summer, you know, during  
21 football season, and then after football season,  
22 he would not go very often after that.

23 Q. And after Sab stopped going over there,  
24 did you hear from the defendant either in person  
25 or on telephone after that?

1 A. Me personally, no.

2 Q. You or Sab?

3 A. Yes. He called Sab. He would call Sab  
4 real late at night like 10:00, 11:00 o'clock at  
5 night, and I would ask, Sab why -- who was  
6 calling him. He would say it would be Jerry and  
7 I would -- I asked him why. He said.

8 MR. ROMINGER: Objection. Hearsay.

9 THE COURT: Sustained.

10 By MR. McGETTIGAN:

11 Q. And are you okay?

12 A. I'm good. Thank you.

13 Q. Can you describe to the ladies and  
14 gentlemen of the jury what you saw and where your  
15 son was at the time he called you and told him to  
16 come get him at the defendant's home?

17 A. My kid was waiting for me outside and he  
18 didn't have any shoes on. I remember him just  
19 getting in the car. This was like about eleven  
20 or so at night. I asked him if he was all right.  
21 He said he was just sick. He wanted to go home  
22 and go to bed. I never asked questions after  
23 that.

24 Q. What did the rest of his clothes look  
25 like, if you remember?

1 A. I can't remember what they looked like.

2 Q. And did the defendant call you or speak  
3 with you in the past six months or a year; do you  
4 recall?

5 A. No.

6 Q. Send any correspondence or e-mail,  
7 anything like that?

8 A. Not that I can recall.

9 MR. McGETTIGAN: If I may just have one  
10 moment, Your Honor.

11 BY MR. McGETTIGAN:

12 Q. Ms. Quidetto, you said that -- oh, do  
13 you have a lawyer now?

14 A. No, I don't.

15 Q. Okay. Did you ever seek a lawyer?

16 A. No.

17 Q. When -- at some point Sabastian, Sab  
18 talked to the police?

19 A. Yes.

20 Q. Were you present then?

21 A. Yes.

22 Q. Did you call the police?

23 A. No.

24 Q. Who did?

25 A. The assistant principal.

1 Q. Why didn't you call the police?

2 A. Because I didn't know who to call.

3 Q. And did you tell Sab you were going to  
4 call the police?

5 A. No.

6 Q. Did he want to talk to the police?

7 A. No.

8 Q. Did he resist talking to the police  
9 initially?

10 A. At first, yes.

11 Q. And you said before you don't know  
12 specifically what happened to Sabastian?

13 A. No, I don't. I just can imagine what  
14 happened to him.

15 Q. Ms. Quidetto, do you feel a little bit  
16 responsible?

17 A. Yes, I do.

18 Q. One other thing I forgot to ask you.  
19 Did the defendant ever give Sabastian gifts? Did  
20 he ever give him clothes?

21 A. Oh, yeah. He gave him clothes. He gave  
22 him gifts. I wish he would have just gave him  
23 some underwear to replace the underwear that I  
24 could never find in my laundry.

25 Q. Are you okay?



1 A. I'm good. I'm good. I'm good.

2 MR. McGETTIGAN: I have nothing further.

3 THE COURT: Cross.

4 MR. AMENDOLA: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. AMENDOLA:

7 Q. Ms. Quidetto, would you like a little  
8 bit more time?

9 A. No, I am good. Thank you.

10 Q. You're welcome. My name is Joe  
11 Amendola. I represent Mr. Sandusky. I am going  
12 to ask you some questions, okay?

13 A. Okay.

14 Q. If you're not sure what I'm asking, let  
15 me know and I'll ask it another way.

16 A. Okay.

17 Q. As far as you can recall, when did  
18 Sabastian first became involved in The Second  
19 Mile program, what year?

20 A. I think in 2004, 2005.

21 Q. And would that have been a summer camp  
22 type program?

23 A. Yes.

24 Q. So it would have been during the summer  
25 of one of those years?

1 A. Yes.

2 Q. Did you take him up to that program?  
3 Did he get a ride with someone?

4 A. No, I took him.

5 Q. And did you take him to Penn State  
6 campus?

7 A. Yes, I did.

8 Q. Now, as far as you can recollect, do you  
9 recall whether or not Sabastian met Mr. Sandusky  
10 that first summer?

11 A. The first summer I don't recall he did  
12 but I do know the second summer he did.

13 Q. The second summer?

14 A. Yes.

15 Q. So, again as best you can recall, you  
16 think the second summer would have been 2005,  
17 2006?

18 A. I'm thinking it would be 2005, yes.

19 Q. You think the second --

20 A. I'm thinking the second year was 2005.

21 Q. So the second summer would have been the  
22 summer of 2005?

23 A. Yes.

24 Q. How old was Sabastian then?

25 A. Sabastian was 11 when he first went.

1 Q. So he would have been 12 in 2005, the  
2 second?

3 A. Twelve, 13 because his birthday fell  
4 along the week of the camp.

5 Q. And again as best you can recall and not  
6 asking you to be specific, but when did Sabastian  
7 start doing things one-on-one or individually  
8 with Mr. Sandusky? Was it after that second  
9 summer, during that second summer?

10 A. Yes. As far as I can recall, yes, the  
11 second one.

12 Q. The second summer?

13 A. Yes.

14 Q. Would it have been after that summer  
15 camp?

16 A. Yes.

17 Q. Can you just tell me a little bit more  
18 again about what Sabastian started doing in terms  
19 of activities as far as you knew from your  
20 standpoint?

21 A. Activities with?

22 Q. Would he spend weekends? Did he start  
23 spending weekends?

24 A. He would spend weekends with Jerry.  
25 Jerry would take him to church. The activities

1 he said he -- they would do racquetball, swim.  
2 Jerry would take him to go see his mother in a  
3 nursing home, play games down in the basement a  
4 lot.

5 Q. So as far from your perspective you  
6 believed that Jerry was doing all these things,  
7 taking Sabastian to church and doing things like  
8 that?

9 A. Sure.

10 Q. Now, you mentioned I think a little bit  
11 earlier, and forgive me if I misheard because  
12 this room is big and sometimes with the fans  
13 going, it's a little bit difficult to hear. Did  
14 you say that Mr. Sandusky had gotten Sabastian  
15 some clothes at some point?

16 A. Yes.

17 Q. Were they the type of clothes that maybe  
18 he could wear to church or wear to activities,  
19 athletic activities?

20 A. They were athletic clothes and sneakers.  
21 He got him a racquetball set. It was mostly Nike  
22 apparel things.

23 Q. As far as you knew, Mr. Sandusky was  
24 playing racquetball and doing athletic things  
25 with Sabastian?

1 A. Yes.

2 Q. If you can tell us again, as best you  
3 can, from the time that Mr. Sandusky started  
4 spending time with Sabastian, after that second  
5 summer camp, about how often would Sabastian go  
6 over and spend a weekend with Mr. Sandusky?

7 A. He would go two weekends, maybe three  
8 weekends a month with him as far as I can recall.

9 Q. And how long did that continue?

10 A. For a couple years.

11 Q. Could it have been -- if Sabastian said  
12 that continued for almost four years, is that a  
13 possibility?

14 A. Around three, four years, yes.

15 Q. And your testimony is that that was two  
16 or three weekends a month basically?

17 A. Yes. Now, it wasn't the whole year  
18 because there would be breaks, you know. But he  
19 would always have contact with Jerry, you know.

20 Q. Now, when he would come home, for  
21 example, who was responsible for doing things  
22 like washing his clothes and things like that?

23 A. That would be me.

24 Q. And I take it, like any mother, you  
25 probably wash clothes at least once a week?

1           A. I do a couple times a week.

2           Q. I was going to say. I have kids, and  
3 it's more than a couple, especially if you have a  
4 girl.

5           A. Right.

6           Q. Did you ever notice anything unusual  
7 about Sabastian's clothes?

8           A. I always wondered why he never had any  
9 underwear in the laundry. He always -- there was  
10 never any underwear, never socks, and I often  
11 wondered what happened to them. He would just  
12 tell me he had an accident in them and he would  
13 throw them out.

14          Q. Did you ask him?

15          A. Did he what?

16          Q. Did you ask him about it?

17          A. Well, yeah, I asked him, and he would  
18 say he had an accident in them and he threw them  
19 out.

20          Q. Okay.

21          A. That was odd to me.

22          Q. Did he ever complain of any medical  
23 problems?

24          A. All the time. His stomach always hurt  
25 him. He also told me he couldn't use the

1 bathroom right.

2 Q. Was that the chief complaint, his  
3 stomach always hurt?

4 A. Yes.

5 Q. Nothing else?

6 A. Just his stomach and he couldn't use the  
7 bathroom right. I mean, I don't --

8 Q. Did you ever take him to the doctor --

9 A. Yeah.

10 Q. -- to get that checked out?

11 A. They said he had acid reflux and it was  
12 his nerves.

13 Q. Did the doctor, when you took him to get  
14 checked out, did he do a physical? In other  
15 words, did he physically examine Sabastian?

16 A. No, he just checked his stomach and he  
17 never had a full physical.

18 Q. Ever?

19 A. Well, he had one to get his driver's  
20 license.

21 Q. Mr. Sandusky -- and maybe I'll ask this  
22 a different way. After these charges came out  
23 publicly, do you recall when you first heard  
24 about them?

25 A. No.

1 Q. Do you recall when Sabastian first  
2 mentioned something about them, not what he said  
3 but when he first mentioned something about his  
4 interactions with Mr. Sandusky?

5 A. Can you repeat that question? I'm not  
6 quite understanding what you are asking me.

7 Q. You mentioned earlier that Sabastian at  
8 some appoint told you something had happened; is  
9 that a fair statement?

10 A. He never told me anything that happened.  
11 He just --

12 Q. Well, how did you find out about it?

13 A. Well, because Jerry was calling him real  
14 late at night. And after the accusations were  
15 posted on news, I said, now, why is Jerry calling  
16 you?

17 Q. That's what I'm getting at.

18 A. Oh, okay.

19 Q. And did you actually speak with Jerry at  
20 some point?

21 A. No, not then.

22 Q. Well, did you perhaps tell the police  
23 when you first started speaking with them that  
24 Jerry had called asking for help?

25 A. Yeah, because he called. I said to Sab



1 why is Jerry calling you real late at night? Why  
2 does he keep calling you? He said that Jerry  
3 asked him to make an affidavit or some kind of  
4 statement on what kind of character person he  
5 was. I just thought that was very inappropriate  
6 of him to call after all these accusations were  
7 going on. Why would he call my kid after he was  
8 being accused of things like this?

9 Q. But the gist of it was that Jerry was  
10 calling asking for help, right?

11 A. I really don't know because I did not  
12 talk to the man. My son talked to him.

13 Q. Now, did you ever tell a police officer  
14 that you received a phone call from Mr. Sandusky  
15 when the investigation was just starting and he  
16 asked you if you could help him out with his  
17 defense?

18 MR. McGETTIGAN: Your Honor, I'm going  
19 to object. I think it's -- he's asking for a  
20 hearsay response. Same thing -- same objection  
21 he made. Asking for double hearsay.

22 THE COURT: I think you have to lay some  
23 foundation for that.

24 BY MR. AMENDOLA:

25 Q. Did you talk to police officers at some

1 point about Mr. Sandusky's involvement with your  
2 son?

3 A. Yes, that day that they came to my  
4 house.

5 Q. And to your knowledge -- let me ask it  
6 another way. As a result of your conversations  
7 with those police officers, did you provide them  
8 with any information about any contact that you  
9 had with Mr. Sandusky?

10 A. No, not that I can recall, no. I mean,  
11 they really didn't ask me anything. They were  
12 talking to Sab the whole time.

13 Q. Do you recall having any conversations  
14 with Mr. Sandusky on the phone after the  
15 accusations were made?

16 A. No. I can't -- no, I can't recall.

17 Q. You mentioned -- and, again, I may have  
18 misheard you. So I'll ask it. Did you say  
19 earlier that Sabastian had some difficulties in  
20 school beginning in 2007?

21 A. Yes, he did.

22 Q. Can you tell us what those difficulties  
23 were?

24 A. He just started slacking off. He just  
25 started not caring about his school work or

1 caring about. He was isolating himself.

2 Q. And you are sure that would have been  
3 the school year of 2007?

4 A. Well, that was a couple years. He just  
5 slowly would just keep to himself and isolate  
6 himself.

7 Q. As best you can recall, can you tell us  
8 what school years you're talking about?

9 A. That -- -- well, when he got older. I  
10 would say around 14, 15, and 16.

11 Q. That's when the problems --

12 A. Yeah, that's when. He's had a lot of  
13 problems. I remember having a lot of problems  
14 with him in school. He wasn't bad -- he wasn't  
15 bad in school. He just didn't care.

16 Q. Thank you.

17 MR. AMENDOLA: That's all I have, Your  
18 Honor.

19 MR. McGETTIGAN: Your Honor, I have  
20 nothing further for Mrs. Quidetto. Thank you.

21 THE WITNESS: Thank you.

22 MR. McGETTIGAN: Are you okay?

23 THE WITNESS: Yes.

24 THE COURT: You can step down.

25 THE WITNESS: Thank you.

1 MR. McGETTIGAN: Your Honor, I think the  
2 Commonwealth has stipulations that have been  
3 entered if Mr. Fina may offer them to the Court  
4 or the jury?

5 MR. FINA: I believe we have three  
6 stipulations agreed upon by the Commonwealth and  
7 the defense.

8 The first one is that James Calhoun who  
9 was a janitor discussed by Mr. Petrosky has been  
10 rendered incompetent to testify as of an  
11 evaluation of June 11, 2012 which was performed  
12 by Dr. Bharat, B-h-a-r-a-t, Adroja, A-d-r-o-j-a.  
13 And he would have testified consistent with that  
14 had it been necessary.

15 In addition, Your Honor, there's a  
16 stipulation as to defendant's current age which  
17 is 69 years old and a further stipulation that  
18 the location of the defendant's residence which  
19 the address was testified to by Agent Sassano and  
20 the location of the buildings that have been  
21 discussed on Penn State University campus, that  
22 those are all located within Centre County.

23 MR. ROMINGER: Your Honor, the only  
24 correction is my client is 68.

25 MR. FINA: I apologize, Judge.

1 THE COURT: The stipulation is that he's  
2 68 years old, correct?

3 MR. McGETTIGAN: Yes, Your Honor.

4 Your Honor, if we may?

5 Your Honor on behalf of Mr. Fina and  
6 myself, the Commonwealth respectfully will rest.

7 MR. AMENDOLA: Ready, Judge.

8 THE COURT: Ladies and gentlemen, you  
9 have heard now the Commonwealth's case. It's now  
10 the opportunity of the defense to present  
11 evidence to you. You'll recall that when we  
12 opened this case and you took an oath to keep an  
13 open mind that I told you that any opinion that  
14 you had before you heard all the evidence was an  
15 uninformed opinion and I hope that and I trust  
16 that you have, consistent with your oath, kept an  
17 open mind and are now prepared to listen to the  
18 defense and the evidence that it presents.

19 Mr. Amendola, go ahead.

20 MR. AMENDOLA: Thank you, Your Honor.

21 Your Honor, our first witness would be  
22 Richard Anderson. He's in that room.

23 Whereupon,

24 RICHARD ANDERSON

25 was called as a witness and having been duly

1 sworn, was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. AMENDOLA:

4 Q. Good morning, Mr. Anderson.

5 A. Good morning.

6 Q. Would you state your full name please?

7 A. Richard E. Anderson.

8 Q. Is that with an s-o-n or s-e-n?

9 A. S-o-n.

10 Q. And where do you reside?

11 A. 375 Farmstead Lane, State College,  
12 Pennsylvania.

13 Q. Can you tell us a little bit about your  
14 background professionally? For example, are you  
15 currently working or are you currently retired?

16 A. I'm currently retired.

17 Q. And can you tell us about your career in  
18 terms of your profession?

19 A. Well, I guess we would go back and I  
20 don't want to go back too far. You stop me. But  
21 my first job after leaving Penn State as a  
22 graduate assistant -- I played with Jerry and  
23 then --

24 Q. When you say Jerry -- let me stop you.

25 A. Jerry Sandusky.

1 Q. When you say you played, can you --

2 A. We played on the same team at Penn  
3 State.

4 Q. What years?

5 A. In the early sixties. I graduated in  
6 '63. '65 I got my Master's Degree and then I  
7 went to Lafayette College to -- my first coaching  
8 job.

9 Q. And how long were you there when before  
10 you changed jobs?

11 A. I was there six years. I went to the  
12 University of Pennsylvania in Philadelphia. I  
13 was there two years. Then I came back to Penn  
14 State to coach in 1973.

15 Q. When you came back to Penn State in  
16 1973, did you have any contact with Mr. Sandusky?

17 A. Well, we had contact all the way  
18 through. We never really lost contact, you know.  
19 But certainly. Jerry was on the staff when I  
20 returned.

21 Q. And how long were you and Mr. Sandusky  
22 on the staff before one of you left?

23 A. That would have been 1984, '73 to '84  
24 when I left to go to Rutgers. And then I  
25 returned in 1990, and Jerry was on the staff at

1 that time as well.

2 Q. And when did you retire as a coach from  
3 Penn State?

4 A. This past January.

5 Q. Were you continuously coaching as an  
6 assistant at Penn State from the time you came  
7 back, I believe in 1990, until you retired?

8 A. Yes, that's correct.

9 Q. Were you coaching during the 1998  
10 season?

11 A. Yes, I was.

12 Q. Can you tell us -- can you tell us a  
13 little bit about your duties as an assistant  
14 coach at Penn State? Specifically going back  
15 through the nineties and to the early 2000s?

16 MR. McGETTIGAN: Your Honor, I would  
17 object. Maybe we can see you at sidebar and  
18 expedite things? May we proceed briefly, Your  
19 Honor?

20 THE COURT: Okay.

21 (Whereupon, the following discussion was  
22 held at sidebar:)

23 MR. McGETTIGAN: Your Honor I don't want  
24 to cut him off. I don't know how --

25 THE COURT: I don't know if he's a fact



1 witness or character witness.

2 MR. McGETTIGAN: Yeah.

3 MR. AMENDOLA: Your Honor, he's actually  
4 serving dual roles but through the key part of  
5 this testimony is to elicit evidence that  
6 Mr. Sandusky was very, very busy as a coach.  
7 That he --

8 THE COURT: He's a fact witness?

9 MR. AMENDOLA: Yes.

10 THE COURT: All Right. Go ahead.

11 MR. McGETTIGAN: I'm sorry. I just  
12 didn't know.

13 THE COURT: That's okay.

14 MR. AMENDOLA: Your Honor, at the end  
15 I'm going to ask him about character.

16 THE COURT: I understand that.

17 MR. McGETTIGAN: Now, I understand, Your  
18 Honor.

19 MR. FINA: But not in the specific  
20 contacts of prior good acts, right?

21 MR. AMENDOLA: As a character witness.  
22 Not this. This is factual. This is about the  
23 schedule that the assistant coaches had.

24 MR. FINA: Okay.

25 MR. AMENDOLA: How busy they were and

1 the hours they put in.

2 MR. McGETTIGAN: Are you trying to limit  
3 his availability to commit the acts he's accused  
4 of because of his schedule or something like  
5 that?

6 MR. AMENDOLA: The contrast -- yes, the  
7 contrast in that the kids are saying every  
8 weekend they were at his house.

9 MR. McGETTIGAN: I just wanted to know.  
10 (End of sidebar discussion.)

11 MR. McGETTIGAN: Thank you, Your Honor.

12 THE COURT: Go ahead, Mr. Amendola.

13 BY MR. AMENDOLA:

14 Q. Mr. Anderson, can you tell us a little  
15 bit about the duties of an assistant coach at  
16 Penn State in the 1990s into the early 2000s?

17 A. Well, the schedule at Penn State really  
18 did very, very much -- and there were various  
19 seasons that go into the coaching profession in  
20 which your schedule changes.

21 If you want to talk specifically about  
22 one season or do you want me to go through all of  
23 those seasons? When I mean seasons, I'm talking  
24 about the fall in-season, the winter season,  
25 recruiting, the spring season which involves

1 spring football, the summer season which involves  
2 camps, et cetera. If you want me to go through  
3 all of that, I will. If you're interested in a  
4 specific part, I'll-

5 Q. Why don't we take it piece-by-piece?  
6 For example, when would preseason practice and  
7 the preseason season begin?

8 A. Well preseason as we know it with the  
9 players would begin generally at the end of the  
10 first week of August, in around August 5th or  
11 6th, depending upon the day of your first game.

12 For coaches we would have a period of  
13 time of about three weeks off in the summer. So  
14 we would reconvene. We would go to the end of  
15 June, and then reconvene either the second or  
16 third week of July in preparation of our  
17 preseason practice. That preseason, as I said,  
18 would begin somewhere around August 5th give or  
19 take a couple of days.

20 Q. And during that time frame beginning in  
21 July for the coaches and running through the  
22 actual season through the end of the season, can  
23 you give us some idea as what a typical daily  
24 schedule would be for a coach?

25 A. Yes. The season, the in-season is a

1 very tedious time simply because of the fighting  
2 the clock kind of principle and preparation of  
3 the game day.

4           So once -- preseason is a whole  
5 different deal because you kind of live almost  
6 with the players and in the office and so on  
7 because there are more than one practice. There  
8 are meetings during the course of the day. So  
9 you'll begin anywhere from 6:00, 6:30 in the  
10 morning and go to 10:00 or 11:00 o'clock at night  
11 during your preseason.

12           Once the season begins, you're on a  
13 schedule on Sunday that generally has about a 12-  
14 to a 14-hour day to it on Sunday. Sometimes a  
15 little longer. Monday about a 15- or 16-hour day  
16 starting early in the morning, usually around the  
17 7:00 o'clock time, and finishing, you know, in  
18 the evening, depending upon the individual, but  
19 most of the time between 10:00 and 11:00 o'clock  
20 for most people. And that would go Sunday  
21 through Wednesday pretty much.

22           And then on Thursday was a little  
23 lighter day because you would get to eat with the  
24 family and then go home after dinner. The family  
25 would generally come to the training table.

1           Friday was either a travel day where you  
2 would travel to your site leaving usually in the  
3 afternoon, but prior to that we would have  
4 meetings before we left. If we were at home, we  
5 would have meetings with staff and with players.  
6 And then we would break either for meetings,  
7 walk-through, that kind of thing, light practice  
8 occasionally, have dinner, and then shortly after  
9 dinner reconvene at the hotel in the evening with  
10 the players. So that was pretty much the  
11 schedule.

12           Saturdays -- Saturdays were, depending  
13 upon the game time, you met with players in the  
14 morning. Had a pre-game meal. Then went to  
15 the -- drove to the stadium and, you know, went  
16 from there. So that was kind of the in-season  
17 schedule.

18           If you wanted to progress and go into  
19 the out-of-season which now becomes the  
20 recruiting season which is a lot of traveling,  
21 which coaches do and leave generally for a week  
22 at a time. Go to your recruiting area, recruit,  
23 come back on weekends, and that takes place  
24 generally through December and January or I  
25 should say most of December, most of January

1 because there are holidays in there which you're  
2 not on the road and in culmination with the  
3 signing date which is in February.

4 Then you get into -- shortly after that  
5 you get into your preparation for your spring  
6 practice which is regular meetings during the  
7 course of the day. No evening meetings generally  
8 in preparation. And then we get into our spring  
9 practice time which is during -- usually during  
10 the month of April, perhaps March, so on.

11 So, that's generally your out-of-season  
12 and then your preseason going into spring  
13 practice. You go into spring practice and you go  
14 through your spring practice which involves a lot  
15 of meeting time, some evening time, not as much  
16 in the fall but some evening time, so on. It  
17 takes up usually seven days a week.

18 Q. Going back to the preseason situation  
19 and the in-season situation, on average how many  
20 hours a day would you say, on average, a coach at  
21 Penn State during an nineties and early 2000s was  
22 committed to working with the program, working  
23 with the athletes on Sundays, Mondays, Tuesdays,  
24 and Wednesdays, because you seem to distinguish  
25 those four days?

1           A. Right. The hours would be anywhere from  
2 I'd say 15 to 17 hours a day.

3           Q. Beginning at what time in the morning on  
4 average?

5           A. Generally around seven. We would not  
6 meet formally as a staff until sometimes nine but  
7 we would start -- for example, Jerry was  
8 defensive coordinator, and he would call his  
9 defensive meeting and his was usually earlier  
10 prior to the offensive meeting. So he would  
11 usually begin in that 7:00 o'clock range. And we  
12 would as an offensive staff usually begin  
13 anywhere from 7:30 to 8:00 o'clock range.

14          Q. And on Thursdays you said it was  
15 somewhat less demanding. Can you give us an  
16 approximation --

17          A. Yes.

18          Q. -- of an average Thursday --

19          A. Yes.

20          Q. -- during the season?

21          A. Yeah. Thursdays we would meet perhaps a  
22 little later. Get into the office maybe between  
23 8:30, 9:00 o'clock generally. Go through a  
24 normal day. We would have meetings and so on.  
25 Meetings with the players in the afternoon. Have

1 practice, and then we would generally have a  
2 dinner where the families were invited. We  
3 called it family night on Thursday. So after  
4 dinner, most of the coaches then would go home  
5 after dinner with the families.

6 Q. What time typically was dinner, if you  
7 recall?

8 A. Yeah. Dinner was usually around the  
9 6:00 o'clock, between 6:00 and 6:30.

10 Q. And then on Fridays and Saturdays on  
11 average, how many hours were coaches committed to  
12 the program during the season?

13 A. Well, on a Friday it would -- if you  
14 were at a home game, you would usually come into  
15 the office and everybody was on a little  
16 different schedule on a Friday because some of us  
17 had some work we had to get done, particularly  
18 perhaps in the recruiting area, phone calls and  
19 so on. So some coaches might be in the office,  
20 you know, eight or 8:30, some nine or 9:30, you  
21 know, on a Friday. But then we would meet as a  
22 staff together, usually somewhere in that 9:00 to  
23 10:00 o'clock range. All right.

24 And we would meet and then break off.  
25 So that we would be in meeting time probably up



1       until noon. Break and then in the afternoon we  
2       would generally get together a little bit as an  
3       offensive and defensive staff. Have meetings  
4       with the players in the afternoon usually right  
5       around that 2:30 to 2:45 time. And then  
6       sometimes have a walk-through, sometimes have a  
7       light practice, and sometimes nothing after the  
8       meetings. Sometimes after the meetings, we would  
9       go to dinner.

10           Q. Now, during these season and preseason  
11       scheduled practices and meetings among coaches,  
12       were the coaches -- all the coaches required to  
13       attend these meetings and workouts?

14           A. Oh, yes. Everybody had to be there and  
15       if you weren't there, that was pretty noticeable.

16           Q. Do you recall Mr. Sandusky attending  
17       those meetings on a regular basis?

18           A. Oh, yes. I mean, he had to be there.

19           Q. Did any of the coaches have time to play  
20       racquetball or basketball in the late afternoon  
21       during the season and preseason?

22           A. Not late afternoon. A lot of us would  
23       take a quick workout at noontime between noon and  
24       one.

25           Q. Would you generally --

1           A. There was nothing in the afternoon. You  
2 would practice and meetings in the afternoons.

3           Q. That would be at noontime?

4           A. Pardon me?

5           Q. When you worked out, that would be at  
6 noon?

7           A. That would be a noontime thing, a twelve  
8 to one deal.

9           Q. Not late afternoons, early evenings?

10          A. No.

11          Q. No. Okay. Now, were there other  
12 responsibilities that coaches had, such as  
13 Mr. Sandusky, for example, clinics and speaking  
14 engagements, things like that?

15          A. Well, we all had those responsibilities  
16 where we had to recruit. That meant getting on  
17 the road. I eluded to that earlier. There were  
18 clinics, all right, that we -- most of us -- in  
19 fact, probably all of us did at one time or  
20 another at various places, locations.

21                 So those were things, you know, that we  
22 had to do. There were banquets, dinners, various  
23 places that we were asked to speak at. That also  
24 went on regularly and was mixed in with that. So  
25 your schedule generally was pretty tenuous.

1                   Jerry probably had more than most  
2 because of being a defensive coordinator and  
3 having a national name, he did a lot of things  
4 that involved speaking engagements which were not  
5 only with The Second Mile but also things that he  
6 did for clinics and banquets, various places in  
7 the country.

8           Q.    If you recall, did these clinics and  
9 these dinners require travel sometimes out of the  
10 immediate Centre County area?

11           A.   Oh, yes. Most of it did, yes. And  
12 depending upon -- where your recruiting area was  
13 and sometimes you went out of your recruiting  
14 area to satisfy a given request on a banquet or a  
15 clinic.

16           Q.    It sounds like you weren't home much  
17 during the process?

18           A.    No. That's why retirement was good, you  
19 know. I finally got a chance to get around home  
20 a little bit.

21           Q.    Would that be true for other coaches  
22 like Mr. Sandusky?

23           A.    Yes, that's the nature of the business.

24           Q.    Now, during the off-season taking you  
25 through the end of the regular season into the

1 winter months, I believe you said there was  
2 recruiting and things like that going on?

3 A. Yes.

4 Q. Did that require travel on the part of  
5 the coaches?

6 A. During -- pardon me again?

7 Q. Yes. During the off-season?

8 A. During the off-season, yes, yes.

9 Q. How often were coaches like Mr. Sandusky  
10 required to travel?

11 A. During the off-season? Well, it would  
12 depend. In the wintertime it was fairly often.  
13 As I said, it was mixed in recruiting. So during  
14 the winter months, I'm talking December, January,  
15 February, those months were pretty heavy in terms  
16 of travel regularly being out a week at a time.  
17 Sometimes if you were in in a particular week,  
18 you went out because you had to satisfy a clinic  
19 or a banquet-type thing. That could mean getting  
20 on an airplane and going to Las Vegas for a  
21 clinic. It could mean going to the west coast.  
22 It could mean going down to Atlantic City, New  
23 Jersey, you know, all various places.

24 Q. How often -- if you can give us some  
25 idea, how often would these trips during the

1 off-season require travel over weekends?

2 A. Not too often over the weekend unless  
3 you would be involved with a banquet because your  
4 recruiting traditionally went from Monday to  
5 Friday with an occasional weekend basketball game  
6 or a weekend visit to a family.

7 Then the other things that would take --  
8 be involved with your weekend would possibly be a  
9 clinic or a banquet where you would have to. But  
10 your actual on the road visiting high schools all  
11 day long would be generally Monday through  
12 Friday.

13 Q. Now, as part of your -- as part of your  
14 duties as I guess an offensive coach, did you  
15 ever have the opportunity to make videos?

16 A. To make videos?

17 Q. Yes. Sports videos?

18 A. Sports videos. I occasionally did.  
19 I've made a couple. Other coaches made more.  
20 Because of Jerry's demand defensively, I know he  
21 made a great deal more than I did and in order  
22 for instruction for high school kids, college  
23 kids, and clinics.

24 Q. Take us through, again just  
25 specifically, in terms of number of hours on

1 average during, say, the winter months starting  
2 with the end of the season running until spring  
3 practices began, on an average how many hours a  
4 day were you, for example, a typical coach  
5 committed to doing the type of things you are  
6 talking about?

7 A. Well, when you travel you were gone. So  
8 you were committed and so, you know, that was a,  
9 you know, 24-hour deal a day. I mean, you're  
10 gone an entire week and whether that be, you  
11 know, a five-day week, four-day week, six-day  
12 week sometimes and sometimes if necessary had to  
13 be a seven-day week where there were other things  
14 on a weekend. So it was an entire week.

15 Now, sometimes you might be in in a  
16 given week. If you're not on the road in a given  
17 week and you happened to be in and you had  
18 responsibilities in recruiting, which was mainly  
19 phone calls and correspondence that you did, you  
20 know, from the office.

21 Q. On average how many weeks, for example,  
22 during the off season, during the winter months  
23 would you be on the road versus back at home?  
24 When I say back at home working out of State  
25 College?

1           A.   Yeah.  I would say -- I would say four  
2 weeks to six weeks depending upon the coach.  
3 Now, some coaches were on the road a little bit  
4 more because of their extended recruiting areas  
5 than others.  Personally, I was on between the  
6 winter and the spring anywhere from probably four  
7 to six weeks.

8           Q.   If you recall did Mr. Sandusky travel  
9 more than the average coach on the team or did he  
10 travel less?

11          A.   I would say --

12                THE COURT:  Wait.  Wait just a second.

13                MR. McGETTIGAN:  Objection, Your Honor.

14                THE COURT:  I'm not sure he can answer  
15 that question.

16 BY MR. AMENDOLA:

17          Q.   How often --

18                MR. AMENDOLA:  I'll ask it another way.

19                THE COURT:  Sustained on the question as  
20 phrased.

21                MR. McGETTIGAN:  Thank you, Your Honor.

22 BY MR. AMENDOLA:

23          Q.   If you recall, how often did  
24 Mr. Sandusky travel?

25                MR. McGETTIGAN:  Your Honor, once again

1 objection. Just saying if you recall doesn't  
2 change the nature of the question.

3 THE COURT: Now it's overruled. We're  
4 asking specifically about Mr. Sandusky.

5 MR. McGETTIGAN: My objection is how  
6 would he know? Again --

7 THE COURT: If he knows.

8 MR. McGETTIGAN: Again, Your Honor.

9 BY MR. AMENDOLA:

10 Q. If you know, how often did Mr. Sandusky  
11 travel?

12 A. Jerry in some cases -- you got to  
13 remember that not all coaches traveled at the  
14 same time. Some were in, some were out. Some  
15 went distances. Some were close.

16 Jerry, I know because of his involvement  
17 in things outside of recruiting which involved a  
18 lot of banquets and clinics, did more of that  
19 kind of traveling where he might be on an  
20 airplane and out of town. So he would do that  
21 certainly more than I would do it.

22 His area of recruiting was probably  
23 comparable in terms of the time on the road  
24 during the year. As I said I was four to six  
25 weeks total between winter and spring recruiting.



1 Q. Now, again if you know, can you tell us  
2 whether or not you were aware whether  
3 Mr. Sandusky was involved in other programs at  
4 the time, non-football programs?

5 A. Other programs or The Second Mile,  
6 certainly.

7 Q. Again if you recall, did Mr. Sandusky  
8 have to spend a lot of time with that program?

9 A. Well, I knew for sure because I attended  
10 some of them. There were various banquets in  
11 various parts of the state that he did and he  
12 had, because of his commitment to The Second  
13 Mile, kept up with those things and did a lot of  
14 them.

15 How many? I couldn't tell you exactly  
16 but I know he did a lot of traveling with The  
17 Second Mile. But there was also -- again, there  
18 was a demand I know on his time more than mine  
19 for clinics and being involved in those and also  
20 speaking engagements other than The Second Mile.

21 Q. Going back to the 1998 -- excuse me.  
22 Going back to the 2000 football season -- Penn  
23 State's football season. Were you still coaching  
24 then?

25 A. 2000?

1 Q. Yes. The year 2000?

2 A. 2000, yes.

3 Q. And can you tell us when the last Penn  
4 State football game was played that year?

5 A. I made reference to that in this. I  
6 wouldn't be able to do it off the top of my head.  
7 But I did off of a media guide. In 2000 we ended  
8 the season on November 18th versus Michigan  
9 State.

10 Q. Can you tell us today if that was a home  
11 or away game?

12 A. That's a home game. It was a home game.

13 Q. So your testimony is from your guide, it  
14 indicates it was November 18th, a home game  
15 against Michigan State in the year 2000?

16 A. Correct.

17 Q. Do you know of any coaches during the  
18 season, during the preseason and the season, who  
19 had the time to play racquetball and basketball  
20 outside the activities associated with the team  
21 during the late afternoon and early evening?

22 MR. McGETTIGAN: Your Honor, this would  
23 call for universal knowledge.

24 THE COURT: It's already been asked and  
25 answered. Sustained.

1 MR. AMENDOLA: Thank you.

2 BY MR. AMENDOLA:

3 Q. Mr. Anderson, are you or would you  
4 consider yourself a close friend of Mr. Sandusky?

5 A. Yes, I do.

6 Q. And over the years that you have known  
7 Mr. Sandusky, do you know other individuals who  
8 know him?

9 A. Yes, probably the best known individual  
10 that I know of in the area.

11 Q. Among those individuals who you know who  
12 have known Mr. Sandusky over the years, prior to  
13 the difficulties with these charges, of course,  
14 have you heard them over the years talk about his  
15 character, his character for being truthful, his  
16 reputation for being honest, law abiding,  
17 nonviolent?

18 A. Well, to put it in an overall context --

19 THE COURT: Objection --

20 MR. McGETTIGAN: Sustained.

21 THE COURT: -- sustained.

22 MR. McGETTIGAN: Or objection. I beg  
23 your pardon, Your Honor.

24 THE COURT: It calls for a yes or no --

25 MR. McGETTIGAN: I'm sorry, Your Honor.

1 THE COURT: It calls for a yes or no  
2 answer.

3 MR. AMENDOLA: Your Honor, I was getting  
4 into character testimony.

5 BY MR. AMENDOLA:

6 Q. Can you tell us what you have heard  
7 other people say about Mr. Sandusky?

8 MR. McGETTIGAN: Objection, Your Honor.

9 THE COURT: Sustained.

10 I think the question is what is his  
11 reputation?

12 MR. AMENDOLA: Yes. I was getting to  
13 that, Judge?

14 THE COURT: I know you were.

15 MR. AMENDOLA: I was getting to that.  
16 That was the prerequisite but I'll just ask it  
17 straight out and keep it simple.

18 BY MR. AMENDOLA:

19 Q. What was Mr. Sandusky's reputation  
20 during all these years?

21 A. Jerry had a great reputation. I don't  
22 know of anybody that I ever came across had a  
23 negative thing --

24 MR. McGETTIGAN: Objection.

25 THE COURT: Sustained.

1 MR. McGETTIGAN: Ask to strike the  
2 remainder of the answer, Your Honor.

3 THE COURT: Yes. He's called as an  
4 expert regarding the defendant's reputation. The  
5 only -- he's not even permitted to express his  
6 personal opinion, only the reputation in the  
7 community.

8 MR. AMENDOLA: That's what I thought I  
9 had asked.

10 THE COURT: Okay.

11 BY MR. AMENDOLA:

12 Q. What was Mr. Sandusky's reputation among  
13 those individuals in the community that you knew?

14 A. He had a wonderful reputation in the  
15 community. He was well thought of in every  
16 regard.

17 Q. Thank you.

18 MR. AMENDOLA: That's all I have.

19 THE COURT: Cross.

20 MR. McGETTIGAN: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. McGETTIGAN:

23 Q. Mr. Anderson, just starting with the  
24 last first. You said the defendant enjoyed a  
25 good reputation for those characteristics that

1 Mr. Amendola pointed out. You know, truthful or  
2 honest or law abiding or whatever. You said that  
3 correct, yes?

4 A. Correct.

5 Q. Okay. Up until the time of these  
6 charges were filed, would that be correct as  
7 well?

8 A. Yes.

9 Q. Do you remember being interviewed by the  
10 state police; do you not?

11 A. Correct.

12 Q. You would agree that this opinion that  
13 you say that people in the community had of the  
14 defendant is not universal. Some people do not  
15 have that opinion; you would agree with that;  
16 wouldn't you?

17 MR. ROMINGER: Objection.

18 THE WITNESS: I don't know that --

19 THE COURT: Sustained.

20 BY MR. McGETTIGAN:

21 Q. Do you recall telling the state police  
22 some years ago that when they came to speak with  
23 you that you didn't know much about this but you  
24 heard rumors about the defendant; do you recall  
25 saying that?

1 MR. ROMINGER: Objection.

2 THE COURT: Sustained.

3 BY MR. McGETTIGAN:

4 Q. You're a contemporary of the defense,  
5 Mr. Anderson; are you not?

6 A. Correct.

7 Q. Okay. And you put in many years of  
8 coaching?

9 A. Correct.

10 Q. Many you shared with him?

11 A. Correct.

12 Q. Long time friend of the defendant?

13 A. Correct.

14 Q. You would say the defendant is not an  
15 unintelligent man, correct?

16 A. Correct.

17 Q. Okay. He's, in fact, well-educated?

18 A. That's correct.

19 Q. Organized?

20 A. Yes.

21 Q. Focused?

22 A. Yes.

23 Q. Capable of understanding complex issues?

24 A. Yes.

25 Q. Okay. Capable of bracing what's

1 appropriate and what's inappropriate; you would  
2 say that?

3 A. Yes.

4 Q. So if someone told him something was  
5 inappropriate in 1998, he wouldn't forget that  
6 the next year or two or three or after that?

7 A. Well, that's a pretty much assumption on  
8 -- based upon what somebody might say is  
9 inappropriate.

10 Q. Okay. If a police officer -- let's say  
11 a police officer. A police officer came to  
12 someone of Mr. Sandusky's comprehension in your  
13 experience, ability, and told him something was  
14 really inappropriate. You shouldn't do that.  
15 You think he would forget that the next day?

16 A. No, I don't think so.

17 Q. Year?

18 A. Nope.

19 Q. A year after?

20 A. No, I don't think so.

21 Q. Okay. You would also -- you didn't keep  
22 the defendant's schedule any time during the time  
23 you coached together, did you? I mean, you note  
24 Jerry is traveling this week, did you?

25 A. No, I did not.



1 Q. Or next week or next month?

2 A. No, although I generally knew because  
3 that was laid out in meetings.

4 Q. You were offensive -- on the offensive  
5 end -- side of things?

6 A. That's correct.

7 Q. He was on the defensive side?

8 A. Correct.

9 Q. Great deal of overlap or pretty much  
10 offense, defense?

11 A. Well, there has to be overlap. You have  
12 to work together.

13 Q. Um-hum. And you would say -- in fact,  
14 let me see if I can characterize it. You would  
15 say the defendant was a driven kind of coach,  
16 right?

17 A. I would say committed, yes.

18 Q. Tireless worker, correct?

19 A. Correct.

20 Q. Okay. And he would work to find time to  
21 get things done that he needed to; wouldn't you  
22 say that?

23 A. Again please?

24 Q. He would work to find time to get things  
25 that he needed to get done; wouldn't you say

1 that?

2 A. You're talking about outside of  
3 football?

4 Q. I'm talking about any time. You saw him  
5 in the football arena. You saw him work hard?

6 A. Correct.

7 Q. And you saw him make time to get what he  
8 needed to or wanted to get done, right?

9 A. Correct.

10 Q. Okay. And at the -- you also knew of  
11 his commitment in The Second, didn't you?

12 A. Yes, I did.

13 Q. Devoted to The Second Mile?

14 A. Yes.

15 Q. In fact, spent a great deal of time at  
16 The Second Mile?

17 A. That's correct.

18 Q. Working with young boys?

19 A. Yes.

20 Q. Okay. In fact, you could in a way say a  
21 lot of times you work in coaching, you work with  
22 young men towards the end of their careers,  
23 sometimes they come to you as freshman. They're  
24 boys basically, right?

25 A. Um-hum. Yes.

1 Q. You would say the defendant was a good  
2 coach?

3 A. Yes.

4 Q. Okay. And that he would be, therefore,  
5 kind of an expert at getting inside boys' heads  
6 and motivating them and move them in the right  
7 direction; wouldn't you say that?

8 A. I don't know if we are experts in that,  
9 any of us but we try -- we do our best to work  
10 with them.

11 Q. As a coach you try to motivate boys,  
12 don't you?

13 A. Absolutely.

14 Q. Okay. And sometimes they don't want to  
15 do what you want them to do, correct?

16 A. Well, that's true sometimes, yes.

17 Q. And sometimes you need to be firm with  
18 some and sometimes you need to be soft with some,  
19 right?

20 A. That's correct.

21 Q. Okay. And, frankly, one of the  
22 characteristics of a good coach is knowing who to  
23 be soft with and who to be firm with, right?

24 A. Correct.

25 Q. Okay. And a good coach, a driven

1 tireless coach, is going to figure out which is  
2 which and push them in that direction, right?

3 A. That's part of our job.

4 Q. Okay. Let's see. You were aware of the  
5 great deal of time the defendant spent with young  
6 boys, aren't you?

7 A. Yes, I am.

8 Q. Were you involved in The Second Mile?

9 A. To some degree, yes.

10 Q. Okay. Did you ever go to motels and  
11 stay alone with young boys?

12 A. No, I have not.

13 MR. ROMINGER: Objection. Outside the  
14 scope.

15 MR. McGETTIGAN: Your Honor, this goes  
16 to credibility, bias, and foundation of  
17 knowledge.

18 THE COURT: I'll permit that question to  
19 stand but I think that's about as far as that's  
20 going to go.

21 MR. McGETTIGAN: Okay. Fine.

22 BY MR. McGETTIGAN:

23 Q. Did you ever see the defendant shower  
24 with young boys?

25 A. Yes. I have also.

1 Q. You showered with young boys, too?

2 A. Oh, yes.

3 Q. Eleven-year olds?

4 A. Oh, yes.

5 Q. That you didn't know?

6 A. Yes. I still do it.

7 Q. Really?

8 A. Yes.

9 Q. When was the last time you showered with  
10 an 11-year old boy?

11 A. YMCA. Do it all the time.

12 Q. Did you bring that boy there?

13 A. No, I didn't bring them there. They're  
14 there all the time.

15 Q. Did you hug him in the shower?

16 A. No, I did not.

17 Q. You didn't?

18 A. No.

19 Q. So you take one there but you draw the  
20 line at hugging him? You wouldn't hug him?

21 A. No. My statement was that there are  
22 regularly young boys at the YMCA showering at the  
23 same time there are older people showering.

24 Q. You didn't bring a young boy to the  
25 shower?

1 A. No, I have not recently, no.

2 Q. Okay. Did you see the defendant bring  
3 young boys to the shower?

4 A. On occasion over the years.

5 Q. Okay. At East Area Locker Room?

6 A. Yes.

7 Q. Is that the one with the push-button  
8 door?

9 A. Push-button door?

10 Q. Yeah. You know, the old door locks they  
11 used to have?

12 A. Yes. Yes. I understand what you mean.  
13 Yes.

14 Q. Was that, in fact, the lock that was on  
15 that East Area Locker Room?

16 A. Yes.

17 Q. Loud pops when you hit that lock?

18 A. Well, no. I don't think they were loud  
19 pops.

20 Q. Okay.

21 A. But there was a door with push buttons  
22 which had a code on it which enabled you to  
23 enter.

24 Q. Yeah, you have to push them in the  
25 sequence?

1 A. Correct.

2 Q. Yeah. There was a big black leather  
3 couch in there, too, in the other area?

4 A. I think it was blue.

5 Q. Dark blue leather couch?

6 A. Yes.

7 Q. And a blue shower curtain across the  
8 coaches' shower?

9 A. Yeah. I don't think it was blue but  
10 there was a shower curtain.

11 Q. I got you. Let's see. You would -- you  
12 never made an investigation of the charges  
13 against the defendant, did you?

14 A. No.

15 Q. Do you know any of the individuals who  
16 allege the defendant abused him, sexually  
17 molested them?

18 A. No.

19 Q. Are you sure?

20 A. Yes.

21 Q. Did you ever bring a young boy to the  
22 Toftrees Motel?

23 A. No.

24 Q. Okay. Tell the ladies and gentlemen of  
25 the jury what the Toftrees was in relation to The

1 Pennsylvania State University football program?

2 A. Toftrees was where we stayed the night  
3 before we played a game at home. So the team  
4 would go there in the evening. That's where we  
5 would have a snack. We would stay. We would  
6 have your pre-game meal prior to the game at  
7 Toftrees.

8 Q. Okay. And you never brought a young boy  
9 to the Toftrees?

10 A. No.

11 Q. Okay. You never brought a young boy to  
12 a bowl game, did you?

13 A. No.

14 Q. You never --

15 A. No. Let me go back. Relatives, yes.

16 Q. That's not what I mean.

17 A. Yes.

18 Q. You never brought -- okay. Did you ever  
19 pose and take pictures of young boy in one of  
20 your player's uniforms?

21 A. I couldn't swear I didn't do that. That  
22 could have been, you know. I don't know.

23 Q. Were you ever prohibited from bringing  
24 children onto The Pennsylvania State University  
25 campus?



1 A. No.

2 Q. Did you know the defendant was  
3 prohibited from bringing young children onto The  
4 Pennsylvania State University campus?

5 A. No.

6 Q. You didn't?

7 A. No.

8 Q. Would you be surprised to hear that?

9 A. Yes.

10 Q. May I have --

11 MR. McGETTIGAN: May I have just one  
12 moment, Your Honor?

13 BY MR. McGETTIGAN:

14 Q. I am going to ask you to take a picture  
15 marked Commonwealth C-2 for identification. Do  
16 you recognize the defendant in that picture; do  
17 you not?

18 A. Yes.

19 Q. Do you recognize the boy with him?

20 A. No.

21 Q. Do you recognize the defendant in that  
22 picture?

23 A. Yes.

24 Q. Do you recognize the boy with him?

25 THE COURT: What number is this now?

1 MR. McGETTIGAN: I beg your pardon, Your  
2 Honor. This would be Commonwealth 6.

3 BY MR. McGETTIGAN:

4 Q. Do you recognize the defendant?

5 A. Yes, I do.

6 Q. Do you recognize the boy with him?

7 A. No.

8 Q. Do you recognize the gentlemen in the  
9 suit with his hand on the tie to the left?

10 A. I'm not sure who that is.

11 Q. Those guys look like a bunch of football  
12 players to you, Mr. Anderson?

13 A. Generally speaking, yes.

14 Q. I won't mislead you on this one. I  
15 promise you.

16 A. Yes, generally speaking it does.

17 Q. Okay. I'm going to ask you to take a  
18 look at this next picture, C-7. Do you recognize  
19 any of the people in that picture?

20 A. It looks like two of our players, past  
21 players, and the boy in the center, I don't  
22 recognize.

23 Q. I'm going to ask you now to look at C-8  
24 for identification. Do you recognize the  
25 defendant in that picture?

1 A. Yes.

2 Q. Do you recognize the little boy next to  
3 him?

4 A. No, other than being a previous picture  
5 which I thought he was in.

6 Q. Pardon me?

7 A. I thought he was in a previous picture.  
8 Other than that, I don't.

9 Q. I think you're right. How about the  
10 uniform? Does the uniform look familiar to you?

11 A. It's a Penn State uniform.

12 Q. You get a prize. Do you remember whose  
13 number that was?

14 A. Yes, I know.

15 Q. Whose?

16 A. Arrington.

17 Q. Okay. Thank you. And I'm going to show  
18 you now C-18 for identification. Can you tell us  
19 what that is?

20 A. It is a Penn State locker room, yes.

21 Q. Would that be the players' locker room?  
22 Would it remind you of being in the players'  
23 locker room where the sauna and shower are?

24 A. Yes.

25 Q. Okay. Thank you. I'm going to show you

1 now C-17 for identification. Do you recognize  
2 the defendant in front of that picture?

3 A. Yes.

4 Q. Okay. And do you recognize the little  
5 boy wearing No. 2 in the back? It's from the  
6 other pictures anyway?

7 A. Yes, from the other pictures.

8 Q. But not independently?

9 A. No.

10 Q. Okay. C-16 for identification. Do you  
11 recognize that as a Penn State-type uniform  
12 there?

13 A. Yes.

14 Q. And the same boy from the other picture?

15 A. Yes.

16 Q. Okay. I'm going to show you now  
17 Commonwealth 14, and do you recognize the  
18 defendant in that picture?

19 A. Yes.

20 Q. Let's test your historical knowledge.  
21 Do you see the score board up in the left-hand  
22 corner there?

23 A. Yes.

24 Q. Okay. What game was that; do you know?

25 A. Well, being A&M, it could have been a

1 couple different games but it probably was the  
2 Alamo Bowl.

3 Q. Okay. And do you recognize that little  
4 boy there standing next to the defendant?

5 A. No, other than being in the previous  
6 picture.

7 Q. Do you remember him being at this game?  
8 Were you at that game?

9 A. Yes, I was.

10 Q. Did you know the defendant brought a  
11 little boy to that game?

12 A. Well, I couldn't give you a specific  
13 answer per game because Jerry did bring various  
14 kids to bowl games. So me identifying that young  
15 man at that bowl game as a remembrance, I could  
16 not do.

17 Q. I'm going to narrow my question. You  
18 don't remember seeing this boy at the game?

19 A. No.

20 Q. You didn't bring a boy to that game?

21 A. No.

22 Q. You said the defendant brought little  
23 boys to other bowl games. Besides this boy, do  
24 you remember any other games he brought little  
25 boys to?

1           A. Not specifically. I can just tell you  
2 generally.

3           Q. So it was his habit to bring little boys  
4 to bowl games?

5           A. Was common for him to involve Second  
6 Mile kids in a lot of his activities. I would  
7 see them, yes.

8           Q. So he would take little boys in  
9 airplanes across state lines to go to bowl games  
10 at various places?

11          A. With his family, as part of his family,  
12 yes. That's true.

13          Q. You are sure that on every occasion that  
14 his family was with him?

15          A. Well, we went to bowls. Our families  
16 all went together.

17          Q. I'm showing you C-13 for identification.

18                THE COURT: We have pretty much  
19 established he doesn't know who this little boy  
20 is.

21                MR. McGETTIGAN: Your Honor, I'm going  
22 to see if he knows who the other persons are with  
23 the little boys.

24                THE COURT: You're going to go through  
25 all these pictures?

1 MR. McGETTIGAN: I only have about a  
2 half a dozen more, Your Honor. I'll make it  
3 quick.

4 THE COURT: Go ahead.

5 MR. McGETTIGAN: Thank you, Your Honor.

6 BY MR. McGETTIGAN:

7 Q. Recognize the same boy?

8 A. Right.

9 Q. Recognize your players?

10 A. They, you know, I don't -- yeah, I do  
11 recognize the players, yes.

12 Q. Recognize them as at Toftrees?

13 A. As this being at Toftrees?

14 Q. Yes.

15 A. I couldn't tell you that.

16 Q. I show you C-12 for identification  
17 please. Do you recognize your players again?

18 A. Yes.

19 Q. C-10 please. Ask you to take a look at  
20 this please.

21 Recognize your players again?

22 A. Yes.

23 Q. Again, would you -- you never brought  
24 any little boys to stay overnight of the

25 Toftrees? You would not approve of that as a

1 practice, would you?

2 A. I never did that, no.

3 Q. You would not approve of that as a  
4 practice the night before a game?

5 A. Well, if there was a special  
6 circumstance, yes.

7 Q. What special circumstance? Would you  
8 imagine --

9 A. Well --

10 Q. Let me finish my question, Mr. Anderson.  
11 What special circumstance would you imagine that  
12 would make it appropriate for a middle-aged man  
13 to bring a young boy to a motel --

14 MR. ROMINGER: Objection.

15 THE COURT: Sustained.

16 BY MR. McGETTIGAN:

17 Q. Why would you bring someone to Toftrees  
18 the night before a game?

19 A. Would I bring who to Toftrees?

20 Q. A boy, little boys to Toftrees?

21 A. If there was a need for special support  
22 in some way, I could see where that could be.

23 Q. What kind of support would you have in  
24 mind?

25 A. Emotional support, you know.



1 Q. Bring him overnight to a hotel and sleep  
2 in the same room with him?

3 A. Would I do that?

4 Q. Yes?

5 A. If necessary. If I felt it to be  
6 necessary.

7 Q. Have you done that?

8 MR. McGETTIGAN: May I have one moment,  
9 Your Honor?

10 BY MR. McGETTIGAN:

11 Q. Mr. Anderson, forgive me if I asked you  
12 this before.

13 MR. McGETTIGAN: Just two or three  
14 questions and then I'll be done, Your Honor.

15 BY MR. McGETTIGAN:

16 Q. You said the defendant spent -- at least  
17 to your ability to observe, the defendant spent a  
18 pretty good deal of time, as most college coaches  
19 do, attending to his duties?

20 A. Correct.

21 Q. And I believe you also said towards the  
22 end of your testimony when Mr. Amendola was  
23 asking you questions that he spent a great deal  
24 of time and committed a great deal of time to his  
25 duties at Second Mile or his interest in Second

1 Mile?

2 A. Correct.

3 Q. Okay. And you would agree that you have  
4 no specific awareness of how he divided his time  
5 during most of the -- you only overlapped for --  
6 I'm only talking late 1990s. You don't have any  
7 great knowledge with specificity of the time he  
8 spent to one or the other?

9 A. Right.

10 Q. Okay. Great. Thanks.

11 MR. McGETTIGAN: I have nothing further.  
12 Thank you, sir.

13 THE COURT: Redirect?

14 MR. AMENDOLA: Thank you, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. AMENDOLA:

17 Q. Mr. Anderson, is there any difference in  
18 your mind between a little boy and an adolescent?

19 MR. McGETTIGAN: Objection, Your Honor.

20 THE COURT: You opened the door. Go  
21 ahead.

22 THE WITNESS: It can be one in the same  
23 depending upon the individual in terms of their  
24 emotional and mental development.

25 BY MR. AMENDOLA:

1 Q. Would you call a 16-year old boy a  
2 little boy?

3 A. A 16-year old?

4 Q. Yes.

5 A. No, I wouldn't. Not by age I wouldn't.

6 Q. Now, you answered a question that  
7 Mr. McGettigan asked, have you ever showered with  
8 little boys and your answer was yes?

9 A. Correct.

10 Q. At the YMCA?

11 A. At the YMCA, at Penn State, at other  
12 places in my life. The first time I took a  
13 shower in high school was with coaches so. I  
14 mean, it was part of my life.

15 Q. And generally that was after workouts,  
16 practices, workouts, whatever?

17 A. Correct.

18 Q. Did you just mention you also had  
19 occasion to shower at the Penn State shower with  
20 young boys?

21 A. Correct.

22 Q. Can you tell us how those occasions  
23 arose?

24 A. If Jerry -- if Jerry would bring someone  
25 in with The Second Mile, they had been working

1 out for whatever reason and, you know, they come  
2 in, it was not uncommon, was on occasion that  
3 that would happen. There would be other coaches  
4 in the shower as well.

5 Q. So I take it coaches were in and out of  
6 the showers while Jerry was there with kids?

7 A. Correct.

8 Q. To your knowledge, did you ever see  
9 anything inappropriate?

10 A. No.

11 Q. With Jerry and one of these kids?

12 A. No.

13 Q. But your testimony today is you had  
14 occasion to be in the shower getting showered. I  
15 assume you were naked?

16 A. Correct.

17 Q. When there were kids around getting  
18 showers even at the Penn State showers?

19 A. Correct.

20 Q. How often on average did you see Jerry  
21 around the football program at these Toftrees  
22 dinners, at games, in the locker rooms with kids?

23 A. I would think, you know, when you talk  
24 about practice, you talk about Toftrees, you talk  
25 about shower, showers were, you know, that was

1 occasionally that would happen. I would see kids  
2 at practice, you know, occasionally. I couldn't  
3 say regularly because I never really paid that  
4 close attention to it when we was on the field.  
5 So in my mind they would be occasional things. I  
6 couldn't give you numbers.

7 Q. Was it unusual to see him with kids in  
8 the football area?

9 A. No, not unusual. Not unusual at all.

10 Q. Thank you.

11 MR. AMENDOLA: That's all I have, Judge.

12 THE COURT: Recross?

13 MR. McGETTIGAN: May I have a moment,  
14 Your Honor?

15 Your Honor, the Commonwealth has  
16 probably shown enough pictures. I will have  
17 nothing further, Your Honor.

18 THE COURT: Thank you. You can step  
19 down.

20 THE WITNESS: Thank you.

21 MR. AMENDOLA: Your Honor, we would call  
22 Clint Mettler, M-e-t-t-l-e-r to the stand.

23 Whereupon,

24 CLINT METTLER

25 was called as a witness and having been duly

1 sworn, was examined and testified as follows:

2 MR. AMENDOLA: I hope we'll be able to  
3 hear him because the mic is a distance away, Your  
4 Honor.

5 DIRECT EXAMINATION

6 BY MR. AMENDOLA:

7 Q. Can you state your full name please?

8 A. Clinton Scott Mettler.

9 Q. And how you do spell your last name?

10 A. M-e-t-t-l-e-r.

11 Q. Do you know Mr. Sandusky?

12 A. Yes, I do.

13 Q. Can you tell us how you know  
14 Mr. Sandusky?

15 A. I used to attend The Second Mile when I  
16 was younger.

17 MR. AMENDOLA: Your Honor, if I -- may I  
18 approach. I'm having a difficult time hearing  
19 him?

20 THE COURT: Yes.

21 BY MR. AMENDOLA:

22 Q. How do you know Mr. Sandusky,  
23 Mr. Mettler?

24 A. I originally met Mr. Sandusky from  
25 attending The Second Mile.

1 Q. When was that?

2 A. I was probably eight, nine years old.

3 Q. And how old are you today?

4 A. Thirty.

5 Q. And how often -- how long were you  
6 involved in The Second Mile?

7 A. Until you are at your max age and then I  
8 counseled there for one year. I volunteered my  
9 services for a week and I was a counselor there  
10 for a week.

11 Q. Thank you. Can you keep your voice up?

12 Tell us a little bit about your personal  
13 contact with Mr. Sandusky.

14 A. I used to talk to Jerry quite a bit, you  
15 know, different things. You know, he would call  
16 and make sure I was doing good in school while I  
17 was attending and while I was in the service, I  
18 spoke with Mr. Sandusky while I was there in the  
19 military.

20 Q. Were you ever over at Mr. Sandusky's  
21 home?

22 A. Yes. I would say maybe five times.

23 Q. Did you ever stay overnight?

24 A. Yes, I did.

25 Q. Out of those five times, about how many

1 times did you stay overnight?

2 A. I think I stayed at his house maybe  
3 three times. Like, the next morning we went to  
4 church and...

5 Q. Did you ever take any trips with  
6 Mr. Sandusky? Any bowl games? Things like that?

7 A. Not specifically with Jerry. Like, he  
8 got me, like, I would receive tickets and I would  
9 take, like, a family member with me or my mom or  
10 my sister.

11 Q. You said you were in the military?

12 A. Yes.

13 Q. Which branch?

14 A. Army.

15 Q. What years were you in the military?

16 A. From 1999 to 2009.

17 Q. Did you serve anywhere outside the  
18 United States?

19 A. Yes.

20 Q. Where was that?

21 A. Germany, Bagdad, Afghanistan. That's  
22 it.

23 Q. Do you know other people that know  
24 Mr. Sandusky?

25 A. Yes, I do.



1 Q. Have you heard those people speak about  
2 his reputation for being honest, truthful, law  
3 abiding, nonviolent, a good person?

4 A. Yes.

5 Q. What's that reputation?

6 A. I have a mutual friend, I went and did a  
7 fund raiser with Jerry for The Second Mile in the  
8 area where I live and they spoke very highly of  
9 him and different things that he was involved  
10 with. The Second Mile is how I met him. He was  
11 very highly in regards to Jerry.

12 Q. Thank you, Mr. Mettler.

13 MR. AMENDOLA: That's all I have.

14 MR. McGETTIGAN: Very briefly.

15 CROSS-EXAMINATION

16 BY MR. McGETTIGAN:

17 Q. How are you, Mr. Mettler?

18 A. Good. How are you?

19 Q. Don't break the microphone. You said  
20 you had a -- you have had conversations with  
21 people who have a high opinion of the defendant?

22 A. Um-hum.

23 Q. Okay. Recently? Remotely? Recent?

24 A. Recently --

25 Q. I'm not asking about who you talked or

1 what they talked about, just if any of those  
2 conversations were recent or were they a long  
3 time ago?

4 A. One of them was -- the person I was  
5 speaking with was very recently, yes.

6 Q. Okay. And so you were in Second Mile,  
7 like, when you were how old? Eight? Nine?

8 A. Yeah, eight, nine until the maximum age.  
9 There's like an age where they --

10 Q. If I tried to pin you down on the exact  
11 year you started, you couldn't get it, could you?  
12 I won't ask you.

13 A. All right.

14 Q. You served in the military in the  
15 Bagdad?

16 A. Um-hum.

17 Q. Liberty?

18 A. Victory.

19 Q. Okay. Twelve or 18?

20 A. On 11 series.

21 Q. Great. Thanks very much. Thank you.

22 MR. McGETTIGAN: I have nothing, Your  
23 Honor.

24 MR. AMENDOLA: We have nothing further,  
25 Your Honor.

1 THE COURT: Thank you, sir.

2 MR. AMENDOLA: Your Honor, the next  
3 witness would be Josh Fravel. He's in the back  
4 room.

5 Whereupon,

6 JOSH FRAVEL

7 was called as a witness and having been duly  
8 sworn, was examined and testified as follows:

9 MR. McGETTIGAN: May we, Your Honor?

10 (Whereupon, the following discussion was  
11 held at sidebar:)

12 MR. McGETTIGAN: If we could have an  
13 offer of proof because if this guy is going all  
14 over the place and just want to make sure.

15 MR. AMENDOLA: Your Honor, what  
16 Mr. Fravel is going to say is that he lives next  
17 door in a duplex, in the adjacent duplex to Dawn  
18 Daniels and Aaron Fisher. Dawn Daniels is Aaron  
19 Fisher's mom.

20 That back in late 2008, there was an  
21 occasion when Aaron Fisher was supposed to --  
22 was -- there was an occasion when Aaron Fisher  
23 was supposed to be picked up by Mr. Sandusky on I  
24 believe a Saturday night and he did not want to  
25 go. What this witness will say is he wanted to

1 go see his friends. The reason for him not  
2 wanting to go was he wanted to go spend time with  
3 his friends and didn't want to go with  
4 Mr. Sandusky.

5 That Aaron and his mother had an  
6 argument because Mrs. Daniels said that she  
7 wanted to go out and had made plans. That Aaron  
8 went into the house. Mrs. Daniels went into the  
9 house. Came out a few minutes later and said to  
10 Mr. Fravel, well, my son just said -- just told  
11 me that Mr. Sandusky had groped him over his  
12 clothing and that we are going to make a lot of  
13 money out of this. We're going to get rich.  
14 We're going to be able to buy a big house with a  
15 white fence around it and live in the country and  
16 our dogs are going to have room to run.

17 He'll also say that a couple weeks  
18 later, in another conversation with Mrs. Daniels,  
19 that she had informed him that she was going to  
20 be a millionaire when this whole thing is over.  
21 He would also say that during that same time  
22 period that Aaron Fisher said that when this is  
23 over I'm going to have my nice new Jeep.

24 That goes to the financial issue, Judge.

25 MR. FINA: Your Honor, the statements of

1 the mother made not in the presence of the son,  
2 how do those come in? What exception to the  
3 hearsay rule would possibly allow those to come  
4 in? I mean, I don't know of any exception that  
5 would allow a punitive -- I'm not sure what that  
6 is. Punitive motive.

7 I'm not sure how does that -- I mean,  
8 the same with Mr. Fisher. You know, I can't  
9 object to that but.

10 THE COURT: Well, this is a prior  
11 inconsistent statement that she testified under  
12 oath that she never said those things.

13 MR. FINA: She did not testify.

14 MR. AMENDOLA: Before the grand jury?

15 MR. McGETTIGAN: She didn't testify. I  
16 don't think she testified before the grand jury  
17 either.

18 THE COURT: Okay. How about Aaron then?  
19 Aaron testified to that fact.

20 MR. McGETTIGAN: He never testified to  
21 what she said. He only testified to what he  
22 said.

23 THE COURT: You got to keep your voice  
24 down.

25 MR. McGETTIGAN: We're not objecting to

1 counsel asking something legitimate that came  
2 from Aaron's mouth. It's just you can't impute  
3 she made those statements to him.

4 MR. AMENDOLA: Your Honor, we'd say two  
5 things.

6 One, it goes to state of mind. Aaron  
7 was in the immediate vicinity when, according to  
8 this witness, that Mrs. Daniels said this. Well,  
9 I say immediate. I can't say within five feet  
10 but certainly within close range.

11 THE COURT: Are you going to call  
12 Mrs. Daniels?

13 MR. AMENDOLA: We hope to. I'm going to  
14 need some cooperation from the Commonwealth.

15 THE COURT: If you call Mrs. Daniels and  
16 she denies it, I'll let you bring him back.

17 MR. AMENDOLA: Okay.

18 THE COURT: He can certainly say what he  
19 heard Aaron say.

20 MR. AMENDOLA: Okay. Do you know is she  
21 in the courtroom today?

22 MR. McGETTIGAN: No.

23 MR. AMENDOLA: Could I ask the Court for  
24 some assistance not with the Court but with the  
25 Commonwealth?

1 THE COURT: Sure. You can --

2 MR. AMENDOLA: Bring her in tomorrow?

3 MR. FINA: Sure.

4 MR. AMENDOLA: Okay.

5 THE COURT: Or this afternoon.

6 MR. AMENDOLA: Even this afternoon would  
7 be great.

8 MR. FINA: If we can get her.

9 MR. McGETTIGAN: Yeah, she works  
10 security at one of these rigs. Whenever you can  
11 do.

12 MR. AMENDOLA: Could you check on that?

13 MR. McGETTIGAN: Sure, absolutely.

14 MR. AMENDOLA: And I'll keep him here  
15 because he lives in Lock Haven.

16 THE COURT: Do you want to start him now  
17 or just wait?

18 MR. AMENDOLA: We'll wait, Judge.

19 (End of sidebar discussion.)

20 MR. AMENDOLA: Mr. Fravel, would you  
21 have a seat in the back room and we'll explain  
22 what's going on a little later?

23 MR. McGETTIGAN: Offer on your next  
24 witness.

25 THE COURT: We're not going to have to

1 do this every time, are we?

2 MR. McGETTIGAN: No. Many of these  
3 persons are unknown to me, Your Honor.

4 THE COURT: That's the reason they call  
5 them to testify.

6 MR. AMENDOLA: Booker Brooks.

7 Whereupon,

8 BOOKER BROOKS

9 was called as a witness and having been duly  
10 sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. AMENDOLA:

13 Q. Mr. Brooks, can you state your name  
14 please?

15 A. Book G. Brooks, Junior.

16 Q. Where do you reside?

17 A. At 136 Delaware Road, Pennsylvania  
18 Furnace.

19 Q. And are you currently employed?

20 A. No. I am retired.

21 Q. Were you once upon a time employed?

22 A. I'm sorry?

23 Q. Were you ever employed?

24 A. Yes, I was employed at the university.

25 Came to the Penn State University in 1968 to



1 study for a Master's Degree and, luckily, I ended  
2 up working here for 15 years under Joe. Jerry  
3 was on the staff.

4 Q. When you say Joe?

5 A. Paterno. I'm sorry.

6 Q. In what capacity did you work under  
7 Coach Paterno?

8 A. My first year, I worked as an assistant  
9 freshman coach back when we had freshman teams.  
10 Eventually when George Welsh took a job, his  
11 first head job at Navy, Joe hired me full time,  
12 and I worked with the offensive line for I think  
13 maybe one to two years. And then I gravitated to  
14 where I really wanted to do my work and that was  
15 with the receivers and the tight ends.

16 Q. In your capacity as a coach -- and maybe  
17 I'll ask this question first. When did you  
18 retire from Penn State as a coach?

19 A. I did not retire from Penn State. I  
20 left Penn State University back in '83, I  
21 believe, to take coordinatorship out at Oregon  
22 State University. And since that happened, I  
23 found out that jobs were not as secure in the  
24 rest of the world as they were at Penn State or I  
25 would still be here and I would have been fired

1 three months ago.

2 I found that doesn't matter if you do a  
3 great job as an assistant somewhere in the world,  
4 you get fired when the head guy gets fired. So I  
5 moved a couple times because I had to and I had a  
6 long stay at the University of Minnesota that I  
7 enjoyed very much. I would still be there if the  
8 head guy hadn't have been fired because it's a  
9 great place to live, as is State College.

10 Then I coached around the world  
11 literally in NFL Europe League and basically when  
12 my son got married, he was a lawyer in Manhattan  
13 and got married and wanted to raise a family and  
14 I said, well, if you move back to State College  
15 I'll come back and join you there.

16 Q. When did you come back to State College?

17 A. Just about three years ago.

18 Q. Go ahead.

19 A. Go ahead.

20 Q. Did you know over the years -- when you  
21 were an assistant coach here, did you know Jerry  
22 Sandusky?

23 A. Knew Jerry very well. Jerry and I were  
24 almost like rookies of the league on the staff  
25 together. I think there might have been one year

1 in between when we both started. But I know  
2 Jerry extremely well. He and I would take  
3 eight-hour car drives.

4 THE COURT: Wait just a second. I am  
5 going to ask you just to be responsive to the  
6 question. The question was do you know Jerry  
7 Sandusky?

8 THE WITNESS: Yes. I'm sorry, Your  
9 Honor.

10 BY MR. AMENDOLA:

11 Q. And how do you know -- explain to us  
12 briefly how you know Jerry Sandusky?

13 A. Well, when you work with a person  
14 14-hour days, seven days a week over years, you  
15 get to know him, and as I was about to say, Your  
16 Honor, that Jerry and I would take car rides  
17 together going out scouting. Sometimes those  
18 rides would be eight hours one way and we would  
19 scout our future opponent and eight hours back.  
20 You get to know a person very well when you are  
21 just alone in the car with him.

22 Q. And during that period of time between  
23 the time that you first met Jerry and the time  
24 that you came back and been back here in State  
25 College, have you known other people who know

1 Jerry?

2 A. Jerry is well-known around -- certainly  
3 in the coaching world. I have known a lot of  
4 people that know Jerry, know of him, have had  
5 obviously some of their ex-athletes have gone to  
6 Penn State here and Jerry has known them and  
7 certainly people from other staffs around the  
8 country that know Jerry and know his reputation  
9 and his work.

10 Q. In terms of that reputation for being an  
11 honest, truthful, law abiding, nonviolent, good  
12 person, what is that reputation among the people  
13 who you know who know Jerry?

14 A. Exemplary, top-notch, other words come  
15 to mind like that.

16 Q. Were you a student-athlete, Mr. Brooks?

17 A. In college?

18 Q. Yes.

19 A. I was a student-athlete, yes.

20 Q. And in your experience have you ever  
21 showered with young kids?

22 A. Many times.

23 Q. Under what circumstances?

24 A. Well, even before I became a coach, as a  
25 youngster in Akron, Ohio, I went to the summer

1 camps sponsored by the YMCA and I showered with  
2 adult men who were not relatives of mine and --  
3 all the time.

4 As I stayed in that system of YMCA  
5 system, I grew old enough to become a counselor  
6 and then in turn, I showered with the younger  
7 people as I was a counselor in the adult stage.

8 And then throughout my life as a  
9 football coach, I have showered with younger men  
10 than myself throughout my life and even currently  
11 right now, since I am a grandfather, I take my  
12 grandchild to local YMCA and since she's not old  
13 enough to go into a room by herself, we go in and  
14 we shower together and I put dry clothes on her  
15 and so forth. That's common.

16 You go into your local YMCA today,  
17 you're going to see many individuals of different  
18 ages in the same shower room. It's a very common  
19 thing all over the country.

20 Q. Is it typically that occurs after people  
21 work out or exercise and things like that?

22 A. Generally you do try to shower after you  
23 have had a workout, whether it be a swim workout  
24 or normal exercising with weights and treadmills  
25 and whatever type of exercise equipment that's

1 being used.

2 Q. And I take it when you refer to the  
3 showering activity you're speaking about that you  
4 have no clothes on; is that a fair statement?

5 A. That I have what?

6 Q. No clothes on?

7 A. Well, yes. I have never showered with  
8 any type of clothing on. I assume other people  
9 haven't. That's correct.

10 Q. Thank you.

11 MR. AMENDOLA: That's all I have.

12 THE COURT: Cross.

13 MR. McGETTIGAN: Very briefly.

14 CROSS-EXAMINATION

15 BY MR. McGETTIGAN:

16 Q. I'm going to suggest a scenario to you  
17 and see when it's one you find agreeable,  
18 Mr. Brooks. How are you today?

19 A. I'm fine. Yourself.

20 Q. Great. You have grandchildren?

21 A. Yes.

22 Q. You're contemporaneous to the  
23 defendant's approximately the same age or the  
24 same year, approximately. You grew up at the  
25 same time that the defendant did?

1           A. I assume we're not the same age but  
2 close. I don't really know how old he is. He  
3 looks older now than he did when we started.

4           Q. How many grandchildren do you have?

5           A. I have two.

6           Q. A boy and a girl?

7           A. A boy and a girl.

8           Q. Okay. And I'm going to offer this  
9 scenario to you and we'll see if you find it one  
10 agreeable. That when your grandson was around  
11 eight or nine that a person unknown to you came  
12 to your house and said I'm going to take your  
13 grandson out for a workout and then he returned  
14 later and revealed to you that he decided to take  
15 your grandson alone naked into a shower and hug  
16 him and pick him up off the ground. Would you  
17 say that's fine, not a problem?

18          A. No, if it happened the way you said it.

19          Q. Yeah. You would find that somewhat  
20 puzzling, would you not, the first time --

21          A. If he said he hugged him in the shower,  
22 yes, sir.

23          Q. You would say inappropriate contact?

24          A. If that person said that. I would not  
25 assume that would have happened.

1 Q. I'm just giving you a hypothetical,  
2 shall we say.

3 A. All right.

4 Q. And then you would assume also that if a  
5 middle-aged man took a eight-, nine-, ten-year  
6 old boy into a shower and hugged him, you would  
7 say that would seem be preliminary to a further  
8 bad behavior; wouldn't you say so?

9 MR. ROMINGER: Objection. Calls for  
10 speculation.

11 MR. McGETTIGAN: I'll withdraw that.

12 THE COURT: Sustained.

13 THE WITNESS: There's a lot of  
14 speculation in that.

15 THE COURT: That is -- an entirely -- an  
16 entirely improper question.

17 MR. McGETTIGAN: I understand, Your  
18 Honor.

19 BY MR. McGETTIGAN:

20 Q. You have known the defendant a long  
21 time?

22 A. Since '68 or '69, yes, sir. That's a  
23 long time in my world.

24 Q. Old friend?

25 A. Friend, co-worker. Yes.



1 Q. You don't know anything about the  
2 charges that have been lodged against him, do  
3 you, particularly?

4 A. Nothing other than I read in the  
5 newspapers.

6 Q. Okay.

7 A. And I did read it online from the grand  
8 jury report. But I understand everything. I am  
9 an adult that's knowledgeable and I know  
10 everything that happens in the grand jury room is  
11 only one-sided and I'll wait for the end of  
12 everything to happen before I make my mind up.

13 Q. Okay. That wasn't why I asked you but  
14 thank you. So basically an old friend of the  
15 defendant. Think he's a good guy. Come in and  
16 say so pretty much?

17 A. I think he's a great guy.

18 Q. Do you? Thank you very much.

19 MR. AMENDOLA: Nothing further, Your  
20 Honor.

21 THE COURT: Thank you. You may step  
22 down, sir.

23 MR. AMENDOLA: Your Honor, may we  
24 approach?

25 (Whereupon, a sidebar discussion was

1 held off the record.)

2 THE COURT: Ladies and gentlemen, we're  
3 going to recess until 1:00 o'clock. So we'll all  
4 remain seated, again that's the procedure, until  
5 the jury is taken out.

6 (Whereupon, the jury was escorted out of  
7 the courtroom.)

8 THE COURT: We're in recess until 1:00  
9 o'clock.

10 (Whereupon, a recess was taken.)

11 THE COURT: You can be seated. Bring  
12 the jury in please.

13 (Whereupon, the jury was escorted into  
14 the courtroom.)

15 THE COURT: I have been meeting with  
16 counsel, and as a result although there has been  
17 some delay in resuming this afternoon, it will  
18 materially speed things along as the trial  
19 progresses.

20 Mr. Amendola, go ahead.

21 MR. AMENDOLA: Your Honor.

22 MR. ROMINGER: Your Honor, we'd call  
23 Dr. Linda Caldwell.

24 Whereupon,

25 LINDA CALDWELL

1 was called as a witness and having been duly  
2 sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. ROMINGER:

5 Q. Ma'am, can you give us your name and  
6 address?

7 A. My name is Linda Caldwell, 2245 Upper  
8 Brush Valley Road, Centre Hall.

9 Q. And, ma'am, were you associated with The  
10 Pennsylvania State University at any point?

11 A. I am, yes. I have been since 1995.

12 Q. Did you run or put together something  
13 called the Community Links Golf For Life Mentor  
14 Program?

15 A. I did.

16 Q. I'm going to ask that Commonwealth's  
17 Exhibit 33 be put up on your screen.

18 Looking at the first page here does that  
19 look like one of your forms that you created or  
20 used?

21 A. Yes.

22 Q. And looking at the second page, is that  
23 your name and address with the university at the  
24 bottom?

25 A. At the time, yes.

1 Q. So at the time that this form was  
2 created, there was a Community Links Golf For  
3 Life Mentor Program and you were expecting  
4 referrals like this?

5 A. That's correct.

6 MR. ROMINGER: Your Honor, I'll make her  
7 available for cross-examination.

8 THE COURT: Mr. McGettigan.

9 MR. McGETTIGAN: Thank you, Your Honor.  
10 I'll be brief.

11 CROSS-EXAMINATION

12 BY MR. McGETTIGAN:

13 Q. Good afternoon, ma'am. How are you?

14 A. Good. Thank you.

15 Q. Is it professor or doctor?

16 A. Either one, Linda.

17 Q. Okay. Do you have a copy of the  
18 document that's up on there?

19 A. No, I don't.

20 MR. McGETTIGAN: May I approach the  
21 witness, Your Honor?

22 THE WITNESS: They did show it to me.

23 THE COURT: It's on the screen.

24 MR. McGETTIGAN: Oh, okay.

25 BY MR. McGETTIGAN:

1 Q. On the first page there is a line that  
2 said referring agency, The Second Mile --  
3 parentheses -- Jerry Sandusky?

4 A. Um-hum.

5 Q. Do you see that?

6 A. Yes.

7 Q. Did you have anything to do with filling  
8 any of that out?

9 A. No.

10 Q. And did you in your official capacity as  
11 the founder of the Community Links Program have  
12 any interaction with The Second Mile? Was it  
13 solely for the purpose of this document and this  
14 youth with the defendant?

15 A. Honestly, I don't remember how this came  
16 to be. It was a one-semester thing. I was  
17 trying to do something. How I got involved with  
18 having a referral from The Second Mile, I don't  
19 remember. It was through, I believe, our  
20 Professional Golf Management Program.

21 Q. I'm just inquiring whether you recall  
22 whether the liaison was you, The Second Mile, or  
23 you to the defendant and you have no reaction?

24 A. Well, I'm sure that we are the ones who  
25 reached out for youth to participate.

1 Q. Okay. I understand. And if I may have  
2 the second page? There we have it.

3 At the top -- you see the handwritten  
4 lines at the top? It would be best if the person  
5 working with Brett would always contact me first.  
6 You see that?

7 A. I see that.

8 Q. Would that be common place in these  
9 mentoring programs for someone to contact someone  
10 other than a parent? Or do you even know?

11 A. I just really -- I mean this was so long  
12 ago. When I was phoned, I didn't even remember  
13 doing this.

14 Q. I was just about to ask you. Professor,  
15 when you were shown this, did you have any  
16 recollection about it?

17 A. I have no recollection whatsoever.

18 Q. You started a program, worked for a  
19 semester, and it was a good idea?

20 A. It didn't work for a semester. It would  
21 have been a good idea, just didn't work. That  
22 was that.

23 Q. Thanks very much, professor.

24 MR. McGETTIGAN: I have nothing further,  
25 Your Honor.

## 1 REDIRECT EXAMINATION

2 BY MR. ROMINGER:

3 Q. So this was set up through the Golf  
4 Outreach Program through the golfing program at  
5 Penn State?

6 A. No, it was set up by me.

7 Q. By you solely?

8 A. Well, with the professional golf  
9 management students who volunteered to be the  
10 mentors.

11 Q. Okay.

12 MR. ROMINGER: No further questions.

13 MR. McGETTIGAN: I have nothing on  
14 recross, Your Honor.15 THE COURT: Thank you. You may step  
16 down.17 MR. AMENDOLA: Your Honor, our next  
18 witness would be Brent Pasquenelli.

19 Whereupon,

20 BRENT PASQUENELLI

21 was called as a witness and having been duly  
22 sworn, was examined and testified as follows:

## 23 DIRECT EXAMINATION

24 BY MR. AMENDOLA:

25 Q. Would stall state your full name please?

1 A. David Brent Pasquenelli.

2 Q. And where do you reside?

3 A. 3089 Shingletown Road, State College,  
4 P.A.

5 Q. And what is your occupation?

6 A. I'm a political consultant.

7 Q. Are you familiar with Jerry Sandusky?

8 A. I am.

9 Q. Can you explain what the connection is  
10 between Mr. Sandusky and yourself?

11 A. I worked at The Second Mile from October  
12 of 2007 to the spring of 2009 in the capacity of  
13 a fund raising consultant for the Campaign For  
14 Excellence.

15 Q. Okay. Can you explain what your duties  
16 were during that period of time?

17 A. My duties were to work with the chairman  
18 of the campaign, Chuck Pearson, and Jerry  
19 Sandusky to raise \$7 million for the campus for  
20 The Second Mile.

21 Q. Did you know Jerry Sandusky before you  
22 began work with The Second Mile in 2007?

23 A. I did. I have known him for a couple  
24 decades. I've participated in Second Mile  
25 events. I knew Jerry casually.



1 Q. And tell us -- beginning in 2007 when  
2 you actually went to work with The Second Mile as  
3 a consultant, tell us what your duties and what  
4 your responsibilities were please?

5 A. Well, my duties were to plan and execute  
6 the -- raising the funds for The Second Mile  
7 campus. Jerry's office was next to mine at The  
8 Second Mile administrative headquarters on South  
9 Atherton Street in State College, and Jerry and I  
10 interacted almost on a daily basis. And we  
11 planned the campaign. We called on prospects  
12 locally as well as throughout the state.

13 Q. Can you tell us why you decided to take  
14 that particular job at that time in your career?

15 A. I chose to take that position simply  
16 because it was a good cause, and I have always  
17 been sort of a sucker for good causes and several  
18 of my friends in the community served as board  
19 members of The Second Mile, and they basically  
20 got with me and asked me to come in and work with  
21 Jerry and Chuck Pearson to lead the campaign and  
22 get it done.

23 I did it on the basis of Jerry's  
24 reputation in the community. Generally speaking  
25 from my perspective in talking to a wide network

1 of friends and associates that I have in the  
2 area, Jerry was a local hero. Probably a  
3 second --

4 THE COURT: Wait just a second. I think  
5 we need to ask questions about this.

6 MR. AMENDOLA: Yes.

7 BY MR. AMENDOLA:

8 Q. Please explain what, if any, contact you  
9 had with Jerry during the time you were employed  
10 by him, by The Second Mile?

11 A. Well, almost on a daily basis, we would  
12 meet and sometimes call prospects on a conference  
13 call in the office together or we would go out to  
14 call corners of the state. We probably made,  
15 from my recollection, at least 15 trips together  
16 by automobile in visiting fund raising prospects  
17 literally in every corner of the state. Jointly  
18 called on prospects asking for contributions to  
19 The Second Mile campus.

20 Q. As part of your responsibilities were  
21 you required or did you take trips -- fund  
22 raising trips with Mr. Sandusky?

23 A. Yes. I was required.

24 Q. Can you give us an approximate number of  
25 times that you accompanied Mr. Sandusky on fund

1 raising trips?

2 A. At least 15 to 20 based on my  
3 recollection.

4 Q. Over that two-year period?

5 A. Over that two-year period.

6 Q. Where would you go to fund raise with  
7 Mr. Sandusky?

8 A. We would visit prospects, whether they  
9 were current board members, current contributors,  
10 or new prospects. We would visit people  
11 generally in their business and jointly call upon  
12 them for contributions.

13 Q. Were there times, to your knowledge, if  
14 you know, that Mr. Sandusky went on fund raising  
15 trips or attended Second Mile events on his own,  
16 without you?

17 A. I did on my own and Jerry did on his  
18 own.

19 Q. Was that a regular type situation?

20 A. Yes, it was.

21 Q. How often, if you can approximate, would  
22 you do separate trips and Jerry do separate trips  
23 in the course of a month in addition to what you  
24 have told us about joint trips?

25 A. I would say that simultaneously I would

1 be out making calls and Jerry would be out making  
2 calls at another corner of the state. Sometimes  
3 we chose to do them together and sometimes --

4 MR. McGETTIGAN: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. AMENDOLA:

7 Q. In the course of your employment with  
8 The Second Mile and your contact with  
9 Mr. Sandusky, did you have occasion to see him  
10 with kids?

11 A. I did.

12 Q. How often?

13 A. I would say once every -- on a  
14 continuing, basis maybe once every two weeks.

15 Q. How would you, from your own personal  
16 experience of Mr. Sandusky, categorize  
17 Mr. Sandusky's activities with kids in your  
18 presence?

19 A. I saw a mutual admiration between Second  
20 Mile youth of boys and girls with Jerry. I saw a  
21 lot of goofing around. Jerry had a very unique  
22 way, and many of us were inspired by this, how he  
23 could relate to youth of all ages and really get  
24 to their level and communicate.

25 Q. I think you indicated earlier you have

1 known Mr. Sandusky for a couple of decades?

2 A. Correct. On a casual basis, yes.

3 Q. Do you know other people who know  
4 Mr. Sandusky?

5 A. Yes.

6 Q. And among those people have you heard  
7 them speak about Mr. Sandusky's reputation during  
8 this period for being truthful, law abiding,  
9 nonviolent, peace-loving, and honest?

10 A. Yes.

11 Q. What is that? Have you heard that?

12 A. Yes.

13 Q. What is that reputation?

14 A. It was generally very, very good, and I  
15 did not take this assignment with The Second Mile  
16 lightly, and I asked a lot of questions before I  
17 stepped into the role. And I can give you names  
18 of individuals that I spoke to that said very  
19 good things about Jerry's character and the work  
20 that he was doing.

21 Q. Thank you.

22 MR. AMENDOLA: That's all I have.

23 MR. McGETTIGAN: Very briefly, Your  
24 Honor.

25 CROSS-EXAMINATION

1 BY MR. McGETTIGAN:

2 Q. Mr. -- will you say your last name for  
3 me once again?

4 A. Pasquenelli.

5 Q. Pasquenelli?

6 A. Yes.

7 Q. You were a lobbyist?

8 A. No.

9 Q. Presently a political consultant?

10 A. Political consultant, correct.

11 Q. I'm not sure of the difference --

12 A. Campaign manager.

13 Q. Okay. I understand. You've know the  
14 defendant a long time? Known the defendant a  
15 long time?

16 A. Yes.

17 Q. Casually?

18 A. Yes.

19 Q. Okay. You don't know what he does  
20 outside of work too much, do you?

21 A. No, not on a firsthand basis.

22 Q. Okay. And basically I'm going to try to  
23 condense this down to one question: Is that,  
24 according to you, the defendant was basically a  
25 tireless worker going around the state raising

1 funds. His only regret was it took him away from  
2 the times that he would like to spend with the  
3 kids that he loved so much. Would that pretty  
4 much be it?

5 A. Could you say that again please? I'm  
6 sorry.

7 Q. Okay. Is that that you spent the time  
8 with the defendant working, going around raising  
9 money, go here and there fund raising, he was a  
10 tireless worker on behalf of The Second Mile, and  
11 that the only regret he appeared to have was that  
12 it took him away from spending time with the  
13 children he loved to interact with so much; would  
14 that be pretty much it?

15 A. I'm not sure.

16 Q. Okay. That's good enough. Thank you.

17 THE COURT: Redirect?

18 MR. AMENDOLA: No, Your Honor.

19 THE COURT: Thank you. You may step  
20 down.

21 THE WITNESS: Thank you.

22 MR. AMENDOLA: Brett Witmer, Your Honor.

23 Whereupon,

24 BRETT WITMER

25 was called as a witness and having been duly

1 sworn, was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. AMENDOLA:

4 Q. Will you state your name, state your  
5 full name?

6 A. My name is Brett Witmer.

7 Q. And where do you reside?

8 A. In Bellefonte.

9 Q. And are you employed?

10 A. Yes.

11 Q. By whom?

12 A. By the school -- Bellefonte School  
13 District.

14 Q. In what capacity?

15 A. I'm a teacher.

16 Q. And what age group or what grade range?

17 A. Second grade, seven to eight.

18 Q. Do you know Mr. Sandusky?

19 A. Yes.

20 Q. Can you tell us how long you have known  
21 Mr. Sandusky?

22 A. Since '99.

23 Q. How did you meet Mr. Sandusky in 1999?

24 A. Working -- actually I interned there as  
25 an HDFS graduate or soon-to-be graduate and then



1 went on and worked for AmeriCorps for two years  
2 and was part-time assigned to The Second Mile and  
3 the Centre County Youth Service Bureau.

4 Q. And during your time with The Second  
5 Mile and that time frame in 1999, 2000 and the  
6 Youth Service Bureau, did you also have occasion  
7 to meet a Brett Swisher Houtz, also I guess known  
8 as Brett Houtz?

9 A. Yes.

10 Q. How did you meet him?

11 A. In the AmeriCorps capacity of going out  
12 to -- well, in working for the Centre County  
13 Youth Service Bureau, I would go to the Snow Shoe  
14 Youth Center and I met him there.

15 Q. And what was your purpose, what was your  
16 responsibility in going to the youth center in  
17 Snow Shoe?

18 A. To implement activities and to kind of  
19 oversee things as the kids came in after school.

20 Q. And did Brett come in after school?

21 A. He did.

22 Q. Did you get to know him?

23 A. Yeah.

24 Q. And were there occasions that you can  
25 tell us about when Brett -- you were around when

1 Brett had interaction with Mr. Sandusky?

2 A. I don't know -- I don't know that I  
3 remember them being together. I knew that they  
4 spent time -- that they spent time together and  
5 that, you know, Jerry certainly seemed to be an  
6 important part of his life.

7 Q. Of Mr. Houtz's life?

8 A. Yes. I would then have known him as  
9 Brett Swisher, yes.

10 Q. Can you elaborate on that a little bit  
11 when you say he seemed to be a very important  
12 part of his life?

13 A. Well, I spoke to him a couple times just  
14 about his interactions with LaVar Arrington at  
15 Penn State.

16 Q. Let's back up. When you say you spoke  
17 to him a couple times, to whom are you referring?

18 A. Brett.

19 Q. And you spoke with him about?

20 A. Just his interactions with the football  
21 team, the football program, Jerry, some of the  
22 exciting things they had gotten to do. And I  
23 know, likewise, Jerry had checked in with me at  
24 times with The Second Mile as to how Brett was  
25 doing, if he was keeping everything together out

1 at the youth center just seemed like a genuine  
2 case of interest in knowing that the kid was  
3 moving in the right direction and appeared to be  
4 being successful.

5 Q. So from your perspective are you telling  
6 us in your connection with Mr. Houtz during this  
7 period of time that he seemed to be moving in a  
8 positive way?

9 MR. McGETTIGAN: Your Honor.

10 THE WITNESS: I was under that  
11 impression.

12 MR. McGETTIGAN: Objection, Your Honor.

13 THE COURT: Sustained.

14 BY MR. AMENDOLA:

15 Q. Did you make any observations in your  
16 contact with Mr. Swisher Houtz about his  
17 relationship with Jerry Sandusky?

18 A. Only the one incident that I can recall  
19 where Jerry had come out to pick Brett up. I  
20 assumed they had made some kind of agreement, and  
21 Brett did not show up on that day and Jerry did.  
22 And we just sat down on the front steps of the  
23 youth center and just kind of talked. I can  
24 remember apologizing to Jerry indicating that I  
25 hadn't seen Brett and, you know, it was something

1 that I --

2 MR. McGETTIGAN: Objection. Hearsay,  
3 Your Honor.

4 MR. AMENDOLA: That was from  
5 Mr. Sandusky in that sense, Judge.

6 THE COURT: Overruled.

7 MR. McGETTIGAN: I'll withdraw. I beg  
8 your pardon.

9 BY MR. AMENDOLA:

10 Q. Okay. Go ahead.

11 A. Okay. I can recall sitting down on the  
12 steps with Jerry and just sort of apologizing for  
13 the fact that I hadn't seen Brett that day and  
14 couldn't offer any help with regards to where he  
15 was. And Jerry was just -- you know, driving out  
16 to Snow Shoe is a pretty long distance. I know I  
17 had to drive that everyday from State College. I  
18 thought that would be a little bit cumbersome.

19 But he was fairly positive about it and  
20 had just said something to the extent of you got  
21 to understand when you are dealing with, you  
22 know, kids who are coming from a difficult  
23 situation, that sometimes they're not going to  
24 want to meet with you, not want to talk to with  
25 you. Other times they're going to want to go and

1 do fun activities and participate in things you  
2 want to do but you always have to be there for  
3 them.

4 And as I then went on to do social work  
5 and even teaching now, I have always kind of  
6 carried that with me in the capacity of kind of  
7 thinking that people who are going to go on and  
8 do great things will always go a step further to  
9 do what they need to do to make sure the best  
10 interests of kids is being served.

11 Q. Thank you.

12 MR. AMENDOLA: That's all I have.

13 CROSS-EXAMINATION

14 BY MR. McGETTIGAN:

15 Q. So your observations of Mr. -- the  
16 defendant's interaction with -- go ahead. Pour.  
17 Go ahead.

18 A. Thank you.

19 Q. Your observations of the interaction  
20 between the defendant and Brett were limited to  
21 one occasion?

22 A. That was not interaction between the  
23 two. But rather Jerry coming out to the Youth  
24 Service Bureau -- or I'm sorry -- the youth  
25 center and Brett not showing up.

1 Q. Did you see him come there many other  
2 times?

3 A. Not that I recall.

4 Q. Did you know the defendant then?

5 A. I did.

6 Q. How do did you know him?

7 A. Through my -- going back to my  
8 involvement with AmeriCorps, it was part-time  
9 responsibility at The Second Mile and then  
10 part-time responsibility for the Snow Shoe Youth  
11 Center via the County Youth Service Bureau.

12 Q. And how is it that you say you knew  
13 Brett?

14 A. In his involvement with coming into the  
15 youth center.

16 Q. What did he do at the youth center?

17 A. It was an after-school program. There  
18 was a P M component for elementary students and  
19 then another component for high school students.

20 Q. How many conversations did you have with  
21 him?

22 A. With Brett?

23 Q. Yeah?

24 A. Twenty, 50. I mean, I would have seen  
25 him frequently and from my involvement with The

1 Second Mile, I knew, you know, background-wise  
2 what it took for a child to be -- to come -- I'm  
3 sorry. To come to be involved with The Second  
4 Mile. So knowing that Jerry had known Brett, I  
5 was certainly willing to do anything and  
6 everything to help in whatever capacity I could  
7 and get to know him and give him another ally.

8 Q. When was the last conversation you had  
9 about your testimony today?

10 A. With the defense attorneys a little bit  
11 this morning.

12 Q. And before that?

13 A. With my wife possibly last evening.

14 Q. So you spoke with defense counsel this  
15 morning, your wife last evening. When did you  
16 speak with defense counsel before that?

17 A. I hadn't. I had a private investigator  
18 had contacted me out of Philadelphia.

19 Q. Have you spoken with the defendant?

20 A. Just today.

21 Q. Before that?

22 A. No, sir.

23 Q. You never talked to him before? You  
24 talked to him at some point.

25 A. Oh, I apologize. I assumed you that

1 meant related to this instance.

2 Q. No.

3 A. No. Prior to -- numerous years.

4 MR. McGETTIGAN: I have nothing further,  
5 Your Honor.

6 MR. AMENDOLA: Nothing further, Your  
7 Honor.

8 THE COURT: Thank you. You may step  
9 down.

10 MR. AMENDOLA: Your Honor, may we  
11 approach?

12 (Whereupon, a sidebar discussion was  
13 held off the record.)

14 THE COURT: Let me tell you where we are  
15 as best I can tell now in terms of the schedule  
16 of where we're going with this case because we're  
17 going to recess now for the afternoon. There are  
18 some technical issues that we have to resolve  
19 regarding some other witnesses.

20 I anticipate that the defense will rest  
21 around noon Wednesday and the Commonwealth, to  
22 the extent that it has any rebuttal testimony,  
23 will conclude that by the end of Wednesday  
24 afternoon which means that the closing arguments  
25 and charge would be given to you on Thursday



1 morning. Now, this is all very attentive,  
2 understand? I'm not -- I don't want to commit to  
3 this because it depends on some other issues and  
4 how other witnesses come in and so on. But  
5 that's tentatively the schedule that the  
6 attorneys and I are working toward.

7           So with that in mind, I need to tell you  
8 now about some arrangements that you'll need to  
9 be making in terms of jury deliberations.  
10 Because during deliberations you're going to be  
11 sequestered which means that you'll be staying in  
12 a local hotel, and you will not be able to use  
13 cell phones, telephones, television, and so  
14 forth. You're going to be confined so that you  
15 are excluded from any kind of outside influences.

16           So I tell you that now so you have got a  
17 couple days to make arrangements. If you have to  
18 make -- whatever arrangements you have to make in  
19 order to do that and then we'll know a day ahead  
20 of time so that you can pack appropriately and  
21 bring whatever clothes you might need, if your  
22 deliberations take that long.

23           Once you begin deliberating, the  
24 schedule is yours. I step out of it, and you all  
25 decide when and how long you want to deliberate.

1 But you should be prepared with clothing and  
2 those other amenities that you might need to go  
3 on for more than a day. Okay.

4 So I tell you that just to give you some  
5 idea of where we're heading with this. We will  
6 reconvene at 9:00 o'clock tomorrow morning. You  
7 can expect a full day tomorrow and a full day on  
8 Wednesday, barring some other problem, which  
9 right now I can't -- neither I nor counsel can  
10 foresee.

11 I'll caution you again, as I have  
12 always, don't read about the case, don't talk to  
13 anybody about the case, don't express any  
14 opinions about the case in writing or in  
15 conversation. I'll permit anyone to do that with  
16 you and if you are approached, it will be  
17 important that you report that to Ms. Gallo.

18 Okay. We'll remain seated now while the  
19 jury is taken out to return at 9:00 o'clock  
20 tomorrow morning.

21 (Whereupon, the jury was escorted from  
22 the courtroom.)

23 THE COURT: We'll be in recess until  
24 9:00 o'clock tomorrow morning.

25 (Whereupon, court recessed for the day.)

1 (Whereupon, the following occurred in  
2 chambers.)

3 THE COURT: Let's go on the record. We  
4 note that we are in chambers. The purpose of the  
5 chambers conference is to discuss the status of  
6 Juror 6. She has been a source of some concern,  
7 and I'll summarize for the record what that  
8 concern was because I can't remember what we have  
9 previously put on the record and what we have  
10 not.

11 I received an e-mail or a fax actually  
12 dated June 6, 2012, which was after jury  
13 selection, from Benjamin L. Heim, CEO and  
14 president of Keystone Real Estate Group  
15 indicating that Juror 6 was an employee of their  
16 company and that Mr. Heim was concerned because  
17 both he and his father, who also is involved in  
18 the business, are on the board of The Second Mile  
19 and Mr. Heim's father since its inception. The  
20 firm also manages The Second Mile office  
21 building. I shared this letter with counsel.

22 At the time of jury selection, Juror No.  
23 6 whose name is Allison Regel, R-e-g-e-l,  
24 Hockenberry, did not disclose any connection with  
25 Second Mile. Mr. Heim indicates that she is new

1 to their organization and may not even understand  
2 the connection between the Heims and Second Mile  
3 but wanted the Court to be made aware of this.

4 Subsequently, I have been informed, the  
5 Court, by the juror ombudsman, who does not  
6 monitor the activity of the jury but is in and  
7 out of the jury room taking care of their needs  
8 and food and so forth, has indicated that on two  
9 occasions she is aware that Juror No. 6 has been  
10 involved in texting despite the instruction of  
11 the Court that cell phones or text not be used  
12 from the time they get on the bus in the morning  
13 until they get back to the jail at night.

14 At a later conversation, Mr. Amendola  
15 reported that he -- and I'll let you make a  
16 record about this in a minute -- that he had  
17 received from a reliable source some information  
18 that she had expressed an opinion about the guilt  
19 or innocence of the defendant, and counsel for  
20 the Commonwealth has indicated that they were  
21 also aware of this potential connection or had  
22 been made aware of the potential connection and  
23 were going to investigate this further, although  
24 were extremely sensitive to the fact that they  
25 did not want to be perceived or in any way be

1 thought of as investigating a juror -- a sitting  
2 juror in an ongoing trial.

3 Is there any other background before I  
4 turn to Mr. Amendola to make a record that  
5 anything that we have discussed that I have  
6 forgotten that we may not have put on the record?

7 MR. ROMINGER: Judge, I think you had  
8 indicated that the second use of the cell phone  
9 became potentially known because somebody brought  
10 a sweater to the courthouse for the juror?

11 THE COURT: That is correct.

12 MR. ROMINGER: So she had at least  
13 summoned somebody from the outside to bring an  
14 object to the courthouse.

15 THE COURT: It was actually someone in  
16 the courthouse.

17 MR. ROMINGER: Okay.

18 THE COURT: A court employee, courthouse  
19 employee. Okay.

20 MR. McGETTIGAN: Maybe Frank will  
21 correct me if I'm wrong. I think our only  
22 knowledge of this initially was that we knew the  
23 names of the employers but that was it. We had  
24 no further information about her and I don't  
25 believe our records reflect that she indicated --

1 that she knew their connection with The Second  
2 Mile or that she had any connection; am I right?

3 MR. FINA: Yes. Our concern, Judge, is  
4 that when we saw the letter from the Heims that  
5 she may be working in close proximity with those  
6 gentlemen, and we didn't want to question anybody  
7 related to the businesses and all we simply did  
8 was check where those gentlemen have their  
9 offices and compared it to where she worked which  
10 was in The Apartment Store.

11 And The Apartment Store is a business  
12 owned in part by the Heims and Keystone Real  
13 Estate Group. The Keystone Real Estate Group  
14 offices are in a large building, I believe, on  
15 College Avenue in downtown State College and The  
16 Apartment Store is a storefront within that  
17 larger building. So I don't know the square  
18 footage or anything. That's the only inquiry we  
19 made.

20 It does appear like these gentlemen work  
21 elsewhere in the building but we didn't send  
22 anybody in or do anything else. We thought there  
23 was just no way to do this without causing more  
24 problems.

25 THE COURT: And I don't believe at any

1 time there's been any improper breach of grand  
2 jury secrecy but I think it is general knowledge  
3 that Second Mile and its various fund raisings  
4 have been the object of some investigations by  
5 some agencies. I don't know if it's the grand  
6 jury, FBI, U.S. Attorney, or somewhat but there  
7 are certainly ongoing investigations.

8 MR. FINA: I think that's very fair to  
9 say, Your Honor.

10 THE COURT: Mr. Amendola, do you want  
11 to --

12 MR. AMENDOLA: Yes, Your Honor.

13 The Court may recall, as I think maybe  
14 Mr. Fina and Mr. McGettigan, when this issue  
15 first came up with this juror being associated  
16 with The Apartment Store and Ben Heim, I  
17 certainly had no objection to her being removed  
18 at that point out of fairness to the  
19 Commonwealth.

20 But ironically thereafter within the  
21 next couple days, I was contacted by an extremely  
22 reliable source, Your Honor, whom I have known  
23 over 30 years in a professional capacity, have no  
24 reason to doubt what he advised me, and what he  
25 said was is that Juror No. 6 -- ironically when

1 he said Juror No. 6, he said she was apparently  
2 texting people or telling people, somehow  
3 communicating with people, that as far as she was  
4 concerned she had already decided that  
5 Mr. Sandusky was guilty.

6 I asked him if he had any knowledge  
7 about whether she had communicated that to  
8 anybody else on the jury panel. He said he did  
9 not have any information that she had  
10 communicated that to anybody else. He advised me  
11 that the contact that she has with the courthouse  
12 is that her stepmother is an attorney and  
13 apparently that's who was texted to bring in the  
14 sweater who apparently it was dropped off to  
15 somebody here at the courthouse and given to her.

16 It raised issues with me especially  
17 given the reliability of my source and this  
18 person, as I said, is extremely professional. He  
19 has never given me bad information over the years  
20 when he's given me information on a regular  
21 basis.

22 I just thought it was strange it was No.  
23 6. I knew we already had problems with her and,  
24 of course, my inkling initially was to be fair to  
25 the Commonwealth, why don't we just remove her



1 and remove any problem one way or the other.  
2 That's why I brought it to the Court's attention  
3 and to the Commonwealth's attention.

4 THE COURT: Can you identify who your  
5 source is?

6 MR. AMENDOLA: Well, he doesn't want to  
7 be identified.

8 THE COURT: If I assure you that his or  
9 her name will not appear in the record, can you  
10 identify it in the confidence in this room?

11 MR. AMENDOLA: I can, Judge.

12 THE COURT: We'll just close the record  
13 for purposes of identifying the person.

14 (Whereupon, a discussion was held off  
15 the record.)

16 THE COURT: Let's go back on the record.

17 Following a discussion with counsel, the  
18 Court will consider whether or not the perception  
19 of fairness requires that the juror be removed  
20 because of her connection with the Heim family  
21 even in the absence of any direct evidence of  
22 misconduct.

23 And if so, the removal will be made  
24 before the jury begins its deliberations or the  
25 substitution will be made before the jury begins

1 its deliberations.

2 Okay. All right.

3 Now, we don't have to put this on the  
4 record.

5 (Whereupon, a discussion was held off  
6 the record.)

7 THE COURT: We'll note that we're on the  
8 record regarding a defense motion to permit the  
9 use of grand jury testimony of Mr. Schultz,  
10 Mr. Curley, and Mr. Spanier in the defense case.  
11 So go ahead, Mr. Rominger.

12 MR. ROMINGER: Your Honor, after  
13 reviewing the three transcripts, we're satisfied  
14 that we would seek to admit pages 3 through 8 of  
15 Mr. Curley's grand jury transcript which I had a  
16 copy given to the court administrator and passed  
17 onto Your Honor.

18 THE COURT: Yes.

19 MR. ROMINGER: It's our belief those  
20 statements were given under oath to the  
21 Commonwealth who had an opportunity to  
22 effectively even cross-examination in the sense  
23 that they ran the proceedings, although it's not  
24 true cross-examination. But under the *Hackett*  
25 case I don't think that message is a high issue

1 of reliability if the statement of police officer  
2 alone has been found to satisfy that. Here, it's  
3 a statement under oath to the grand jury, the  
4 oath being particularly important.

5 Because the statement tends to exculpate  
6 Mr. Sandusky because it contradicts the  
7 impression that Mr. McQueary left that he was  
8 clear about what he saw, Mr. Curley makes it  
9 clear that it was much more ambivalent. It  
10 wasn't even in fact that it was a crime or  
11 anything besides horseplay was communicated to  
12 him, which the Commonwealth made a point of  
13 having Mr. McQueary say that he didn't just say  
14 it was horseplay.

15 Mr. Curley is going to say it was  
16 communicated to him it was horseplay between a  
17 man and a boy in the shower and he didn't hear  
18 about anything sexual in nature or at least  
19 graphically sexual in nature. So it tends to  
20 contradict Mr. McQueary and exculpate the  
21 defendant. The exculpatory statement of an  
22 unavailable witness under 804 and analysis under  
23 *Hackett* and the other cases I cite, I think  
24 *Hackett* says it's mandatory to be admitted.

25 Interestingly, since then *Crawford* and

1 *Melendez-Diaz* has come out but that speaks to the  
2 admission of a statement testamentary against the  
3 defendant. It's a different policy when it tends  
4 to exculpate the defendant. And just like the  
5 government was able to get in an excited  
6 utterance because *Melendez-Diaz* and *Crawford*  
7 don't apply, hereto the defendant should be able  
8 to get in an exculpatory statement because the  
9 crucible cross-examination isn't the test here.

10 Here the test is the inherent  
11 reliability created by being underneath as  
12 outlined in the *Hackett* case.

13 THE COURT: Are you -- I didn't mean to  
14 catch you off guard. I don't know if you are  
15 prepared to argue this.

16 MR. FINA: I don't have a file here,  
17 Judge, but I'll just throw out some thoughts, if  
18 that's all right.

19 I would actually largely agree with the  
20 legal analysis in the sense that I think that  
21 this is outside of *Crawford*. Whether or not it's  
22 an exception though to hearsay and those issues,  
23 I think is something else. I mean, I think this  
24 reliability analysis is the proper, one of the  
25 proper analysis that should be conducted and it

1 does seem though that the notion that a statement  
2 given that was not cross-examined before a grand  
3 jury that resulted in perjury charges on the very  
4 essence of why it would be presented here, which  
5 is the issue of how McQueary characterized what  
6 he saw, those are the -- that's the only  
7 information they want to present, I think is the  
8 exact opposite effect; that it vests in  
9 unreliability in the statement.

10 I think the other problem with doing  
11 this is -- I don't know how you just put in  
12 segments of Curley's testimony and then not put  
13 in Schultz's testimony who was also present at  
14 the discussion. Then I don't know how the  
15 handwritten notes of Schultz from his discussions  
16 with Curley don't come in.

17 Again, if we're going down this road of  
18 putting in prior statements, I mean a statement  
19 written by Schultz on the date -- it's dated  
20 February 12, 2001 -- on the date that he had the  
21 discussion with Paterno and then immediately with  
22 Curley. I mean, I'm not sure what would be more  
23 reliable than that in his own hand. We have the  
24 actual physical note, and we can verify his  
25 handwriting and its placement in his office.

1           So we get into an area here, Judge,  
2           that's awfully -- I mean awfully far from I think  
3           the normal standard rules of evidence. And I  
4           think once we go in that area, I think there  
5           would be a lot of objections from the defense to  
6           introducing that information. Then we get into  
7           e-mails.

8           MR. McGETTIGAN: Yeah.

9           MR. FINA: And we can forensically -- we  
10          can authenticate those e-mails as having come  
11          from Curley and Schultz and Spanier.

12          And again, I think, Judge, that that  
13          information really inures to the benefit of the  
14          Commonwealth. I'm in the strong posture that if  
15          we go down this road, I think it's something  
16          that we really benefit from but I'm not sure what  
17          the evidentiary basis for any of that would be.

18          MR. ROMINGER: The interesting question  
19          that is unresolved that this raises is I still  
20          want to raise and I think Justice Cleo would say  
21          the result of the crucible cross-examination is  
22          still going to be required for inculpatory  
23          statements. So it's really seemingly unfair to  
24          the Commonwealth, but that's what the founders  
25          wanted.

1 MR. McGETTIGAN: Which doesn't address  
2 the idea of how we address the evidence that they  
3 would put on because we have tremendous contrary  
4 evidence and charge of perjury.

5 THE COURT: I'm not so much concerned  
6 about permitting you to introduce this statement.  
7 I'm more concerned about what the Commonwealth's  
8 response is and how I rule on that because  
9 clearly the Commonwealth would be permitted to  
10 prove at least that they have now been indicted  
11 for perjury or at least two of them have.

12 And then do I say, okay, the  
13 Commonwealth, you are restricted. You can't go  
14 beyond that, and then you argue to the jury,  
15 well, they're indicted for perjury but they are  
16 presumed to be innocent and, therefore, until  
17 they're proven that they lied to the jury, you  
18 are entitled to rely on this statement, which  
19 could potentially be misleading to the jury if  
20 the Commonwealth in fact has other evidence of  
21 perjury.

22 And then that gets us to a -- basically  
23 trying Curley and Schultz in this case before  
24 they have been tried in their own case.

25 MR. ROMINGER: I would note we did ask

1 for a continuance past the Curley and Schultz  
2 cases.

3 THE COURT: Yeah, you did note I denied  
4 that for obvious reasons.

5 MR. FINA: They said they would never  
6 testify in this case whether acquitted or not.

7 THE COURT: That is the other aspect.  
8 There's no assurance they would ever be  
9 available.

10 MR. ROMINGER: Right.

11 THE COURT: Okay.

12 MR. ROMINGER: And, Judge, in fairness,  
13 when *Hackett* was decided, *Crawford* -- slash --  
14 *Melendez-Diaz* was not even a glimmer in the eye.  
15 So I understand the problem that it creates but,  
16 obviously, as an advocate I would like to take  
17 the position I can have my cake and they can't  
18 cross-examine on it.

19 MR. McGETTIGAN: By making this motion,  
20 you are trying to have your cake and eat it, too,  
21 obviously.

22 THE COURT: I'm not going to mislead the  
23 jury. I recognized early on in this case that --  
24 and I have expressed it -- that in this complex,  
25 constellation of litigation, some case had to go



1 forward first and subsequent events may result in  
2 whoever went first has to be tried again. I  
3 don't know. If Curley and Schultz are convicted  
4 of perjury or some related count, then your issue  
5 becomes basically moot.

6 MR. ROMINGER: Correct.

7 THE COURT: If they're acquitted, then  
8 potentially it creates a problem, depending on  
9 how I rule.

10 So the question in my mind is not the  
11 admission of the statement. It is what  
12 restriction, if any, should be placed on the  
13 Commonwealth?

14 Another concern that I have here is  
15 there's some fundamental due process issues, and  
16 I'm not suggesting that the Commonwealth has in  
17 any way acted improperly. But one could easily  
18 see how the Commonwealth could hamstring the  
19 defense by issuing target letters or indictments  
20 directed toward defense witnesses. Therefore,  
21 you know, effectively quieting a witness who has  
22 no choice but to exert a Fifth Amendment  
23 privilege. I'm not suggesting that was done but  
24 I'm trying to figure out how to sort through that  
25 problem.

1 MR. McGETTIGAN: Of course, Your Honor,  
2 that potential exists in every single criminal  
3 case tried.

4 THE COURT: Sure, it does.

5 MR. McGETTIGAN: I mean, as soon as the  
6 detectives determine who the potential witnesses  
7 are one way or the other, they do that. Whereas  
8 I can assure the Court that the only warrant that  
9 we contemplated, under inappropriate  
10 circumstance, was for Mr. Amendola.

11 MR. FINA: This has also now at this  
12 point in the proceedings survived at least two  
13 levels of judicial review and I think the habeas  
14 as well. I have to check and see if Judge Hoover  
15 ruled on that but I think he may have which would  
16 then be three levels of judicial review where  
17 prima facie evidence was found by the presiding  
18 judge of the grand jury, prima facie evidence was  
19 found by the magisterial district justice, and I  
20 have to check but I think Judge Hoover may -- I  
21 would have to check on that. I know that the  
22 habeas has been litigated.

23 I appreciate the Court's concern but,  
24 you know, this, I think, is not one of those  
25 cases.

1 THE COURT: Now, if the defense puts  
2 these statements in, are you asking that you be  
3 permitted to do something more than inform the  
4 jury that the people have been indicted for  
5 perjury?

6 MR. FINA: Yes.

7 MR. McGETTIGAN: Yes.

8 MR. FINA: Yes, Your Honor. We would  
9 ask to essentially impeach their grand jury  
10 statements with their own writings, at the very  
11 least, their own e-mails contemporaneous with the  
12 events by the way, not two years later in front  
13 of the grand jury -- their own e-mails and their  
14 own handwritten notes. The handwritten notes are  
15 all those of Schultz but at least one of them  
16 involves a conversation between Schultz and  
17 Curley as he writes it out.

18 THE COURT: Does that -- would that  
19 strategy implicate their rights to a fair trial  
20 in their case?

21 MR. McGETTIGAN: That's not an unfair  
22 argument, Your Honor, because they would not be  
23 here to address that evidence, and we would be  
24 essentially convicting them of perjury in this  
25 trial, and we would convict them of perjury in

1 this trial.

2 THE COURT: How critical is this  
3 statement to Mr. Sandusky's defense?

4 MR. ROMINGER: All fairness, Judge, if I  
5 have to -- right, if I have to evaluate it,  
6 McQueary agreed didn't see penetration, et  
7 cetera, I couldn't get in his father's two  
8 statements although I would like to address that  
9 tangentially.

10 I think I should have been allowed to  
11 read the question and answer to him just to see  
12 if he would have adopted it out loud. We're  
13 going to ask later if we can read those two  
14 questions and answers in the record. That would  
15 probably be after Dr. Dranov testifies depending  
16 what he says. It may be a point where it would  
17 simply be cumulative at that point.

18 I believe that the father says that he  
19 told Curley that, you know, he saw something, at  
20 best inappropriate, possibly more. But it was  
21 very equivocal and that my point on that was just  
22 going to get out his son had been very  
23 equivocating with him as well.

24 I think Dr. Dranov is going to say that  
25 as well. Curley may become cumulative at that

1 point.

2 MR. McGETTIGAN: It's difficult.

3 MR. FINA: I'm not in the business of  
4 handicapping defense cases but, again, depending  
5 what happens but if the Curley and Schultz  
6 statements come in and then we're permitted to  
7 provide any response, either they have been  
8 charged with perjury and/or if we put in their  
9 hand written e-mails, I think it's actually like  
10 a minus 20 for them. I think they lose ground on  
11 that. Again, I'm not --

12 THE COURT: Sure.

13 MR. FINA: -- in the business for  
14 speaking but I don't know how it helps.

15 THE COURT: You are still planning to  
16 call Dr. Dranov?

17 MR. AMENDOLA: Yes.

18 MR. ROMINGER: He will be here Wednesday  
19 morning, Judge.

20 MR. AMENDOLA: He's not available until  
21 Wednesday morning.

22 THE COURT: Okay.

23 MR. McGETTIGAN: Defer your decision  
24 until later.

25 THE COURT: Yeah, and see.

1 MR. McGETTIGAN: Because I think --

2 THE COURT: It's going to turn -- the  
3 first question is how important is this evidence.

4 MR. ROMINGER: Right.

5 THE COURT: If it's important enough to  
6 get in, it's probably going to be important  
7 enough to impeach. How you're going to go about  
8 impeaching it, we don't need to talk about that  
9 now but -- and whether you want to risk your case  
10 against Curley and Schultz to save your case  
11 against Victim 2 would be something maybe for you  
12 to consider. I am thinking out loud.

13 MR. McGETTIGAN: The only other  
14 consideration would be that knowing Your Honor is  
15 not going to rule until Wednesday, we try and  
16 seek at least some understanding from defense  
17 counsel that we would not have to go through a  
18 chain of authentication that which we know to be  
19 authentic so we can present it in some other  
20 fashion.

21 Again, I think on the scale one to ten,  
22 this is a one for the defense that could turn  
23 into a minus 20 and raise all sorts of legal  
24 issues. I can't imagine there's any potential  
25 claim of ineffectiveness for failing to do this.

1 This is a novel theory.

2 THE COURT: The point I was making was  
3 that if by pursuing that argument about the  
4 statements and the handwriting and thereby  
5 perhaps prejudicing Curley and Schultz's right to  
6 a fair trial, you may have lost that case.

7 MR. McGETTIGAN: The good thing about  
8 that though --

9 THE COURT: All right.

10 MR. McGETTIGAN: Only good thing.

11 MR. FINA: I appreciate that.

12 MR. McGETTIGAN: But we're not going to  
13 try that case.

14 MR. FINA: I don't think so. The one  
15 exception if you have to put the evidence in  
16 another case, I think that's not viewed as  
17 predatory.

18 THE COURT: I'm thinking out loud and I  
19 shouldn't do that.

20 (Whereupon, a discussion was held off  
21 the record.)

22 (End of discussion in chambers.)

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

24

25

## 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