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COMMONWEALTH OF PENNSYLVANIA: COURT OF COMMON PLEAS
CENTRE COUNTY, PA

v.	:	
	:	NO. CP-14-CR-2421-2011
	:	CP-14-CR-2422-2011
GERALD A. SANDUSKY	:	
Defendant	:	
	:	

POST-CONVICTION RELIEF ACT PETITION

Petitioner, Gerald A. Sandusky ("Petitioner" or "Sandusky"), through counsel, files this petition for relief under the Post-Conviction Relief Act ("PCRA"). In support, Sandusky avers the following:

INTRODUCTION

The prosecution at trial undisputedly failed to disclose the continuing evolution of the accusers' allegations against Sandusky, in direct violation of the strictures of *Brady*. It also, falsely, claimed that the accusers had not undergone

therapy that impacted their memories of alleged abuse. Now, new evidence has come to light that indicates that not only did members of the prosecution team coach and induce alleged Victim 10, R.R., to make false allegations against Sandusky, but that prosecutors had a financial incentive to induce the allegations made by Victim 9: S.P., and that critical aspects of his testimony were false. What is more, other documents never before produced to the Courts reveal that other accusers did in fact undergo therapy intended to aid them reconstruct memories of alleged abuse. That civil attorneys recruited accusers and then altered their stories to take advantage of the possibility of greater financial gain for themselves, and the accusers is crystal clear.

Moreover, it is evident that the new evidence directly contradicts prior claims made by the Commonwealth and directly undermines the results and reasoning of prior decisions. That prosecutors acted improperly by withholding evidence from the defense and coercing allegations is clear, but the scope and level of such malfeasance raises deeply concerning questions related to Sandusky's trial. The Commonwealth's dubious course of conduct along with the improper influences of therapists like Michael Gillum and Cynthia MacNab and civil attorneys demonstrate that the accusers were highly incentivized and encouraged to make false allegations-infecting Sandusky's trial in ways totally unknown to the jury.

This Petition will present evidence that is new and has never been litigated,

evidence that was not litigated due to ineffective assistance of prior counsel, and references evidence that while presented before has increased in significance because the new evidence completely undermines prior factual assumptions and determinations. Sandusky is entitled to an evidentiary hearing and a new trial based on the new claims raised herein.

SANDUSKY IS ELIGIBLE FOR RELIEF

1. Sandusky is currently serving his sentence of thirty to sixty years incarceration at SCI-Laurel Highlands. 42 PA. CONS. STAT. § 9543(a)(1)(i).
2. Sandusky's grounds for relief, below, have not been previously litigated or waived. 42 PA. CONS. STAT. § 9543(a)(3); 42 PA. CONS. STAT. § 9544.
3. The failure to litigate any of the below grounds for relief, prior to or during trial, during PCRA review, or on direct appeal could not have been (and were not) the result of any rational, strategic, or tactical decision by trial counsel, original direct appeal counsel, PCRA counsel, remand/re-sentencing counsel, and re-sentencing appeal counsel. 42 PA. CONS. STAT. § 9543(a)(4).
4. The Superior Court affirmed Sandusky's judgment of sentence on September 19, 2024.
5. Sandusky did not file a Petition for Allowance of Appeal; therefore, his judgment of sentence became final on October 19, 2024.

6. The court has jurisdiction to consider and resolve the grounds in this PCRA petition that Sandusky timely files within one year of the date that his judgment became final on October 19, 2024. 42 PA. CONS. STAT. §§ 9545(a), (b)(1), (b)(3).

7. In addition, Sandusky's newly-discovered facts/after-discovered evidence and governmental interference claims are raised within one year of learning of the relevant information.¹ 42 PA. CONS. STAT. §§ 9545(b)(1)(i)(ii) & §9545(b)(2).

ISSUES

8. Sandusky raises the following grounds for relief:

After-Discovered Evidence and Governmental Misconduct

- i. Sandusky was denied due process of law and is entitled to a new trial based on after-discovered evidence based on the recantation and affidavit of R.R. (Alleged Victim 10);
- ii. Sandusky was denied due process of law and is entitled to a new trial based on after-discovered evidence that Prosecutors Joseph McGettigan and Frank Fina profited from abuse allegations made by S.P. (Alleged Victim 9) and assisted in procuring him a civil attorney and in setting up a trust fund for S.P. in which Fina served as a trustee along with McGettigan's paramour;
- iii. Sandusky was denied due process of law and is entitled to a new trial based on after-discovered evidence that the prosecution manipulated

¹ On October 24, 2018, the PCRA was amended to extend the period to bring a claim based on a timeliness exception from 60 days to one year. That amendment applied to claims arising one year before December 24, 2018 (the effective date of the amendment) and thereafter. Section 3 of Act 2018, Oct. 24, P.L. 894, No. 146; 42 Pa.C.S. § 9545. Thus, the amendment applies to Sandusky's newly-discovered facts and governmental interference claims.

the testimony of S.P., and manipulated S.P.'s mother testimony to promote the prosecution's theory;

Ineffective Assistance of Prior Counsel

- iv. Re-sentencing counsel was ineffective in failing to timely present after-discovered evidence of the photocopy of a diary maintained by Kathleen McChesney in her capacity as a member of the investigative team led by Louis Freeh, Esquire and "summaries" of emails to and from various members of the Freeh team and evidence concerning the Freeh team's interview of an individual who became a Sandusky juror;
 - v. Re-sentencing/remand counsel was ineffective in failing to timely present after-discovered evidence related to civil questionnaire forms of accusers that showed ever changing allegations, contained cookie cutter allegations designed to indicate the person was either Victim 2 or Victim 8, and referenced repressed memory--which the Commonwealth has falsely represented were not at issue in this matter;²
 - vi. Prior PCRA counsel were ineffective in failing to present a **Brady** claim related to the Commonwealth's failure to disclose the role that therapist Michael Gillum played as a *de facto* member of the prosecution team;
 - vii. Trial counsel was ineffective in failing to challenge the two-year statute of limitations period for each Unlawful Contact of Minor count where the last claimed abuse was December of 2008 and Sandusky was not charged until December of 2011, and prior PCRA counsel were ineffective in failing to raise trial counsel's ineffectiveness;
 - viii. Trial counsel and prior PCRA counsel were ineffective in failing to raise a statute of limitations defense to the Indecent Assault, Corruption of Minors and Endangering the Welfare of Children Charges at Counts 12, 14, 15, 20, 22, 23, 30, 31, 32, 34, 35.
9. Sandusky requests an evidentiary hearing to establish the merits of his

claims and his actual innocence.

² The civil questionnaire documents are attached hereto as Exhibits A-I.

Prior Counsel

10. At trial, Sandusky was represented by Attorneys Joseph L. Amendola and Karl E. Rominger.

11. Sandusky was represented on original direct appeal by Attorney Norris Gelman.

12. Sandusky was represented by the Lindsay Law Firm, P.C. and Attorneys Al Lindsay and J. Andrew Salemmme during his original PCRA proceedings and initial PCRA appeal.

13. Sandusky was represented by the Lindsay Law Firm and Attorney Al Lindsay during re-sentencing.

14. Attorneys Al Lindsay and Philip D. Lauer represented Sandusky on appeal following his re-sentencing.

15. Attorney Lindsay also represented Sandusky following remand from the Superior Court to resolve whether the trial court properly ordered restitution of \$95,047.88 and to “ensure that [Sandusky] is resentenced in conformity with [18 Pa.C.S.] § 1106(a).” *Commonwealth v. Sandusky*, 2021 Pa. Super. Unpub. LEXIS 1279, *15.

16. The undersigned represented Sandusky in his direct appeal from the trial court’s Order of restitution and denial of an evidentiary hearing on claims of after-discovered evidence.

Presiding Judges

17. Judge John Cleland presided over trial and the original sentencing.

18. Judge Cleland and Judge John Foradora presided over Sandusky's original PCRA proceedings.

19. Judge Maureen Skerda presided over Sandusky's re-sentencing proceedings and after-discovered evidence/post-remand post-sentence motions.

Current Counsel

20. Attorneys Freese, Russo, Salemme and Zemlock, are authorized to file this Petition on behalf of Sandusky.

21. Sandusky continues to maintain his actual innocence.

PROCEDURAL HISTORY

22. On November 3, 2011, a Grand Jury voted to approve a presentment recommending charges against Sandusky. On December 7, 2011, the Grand Jury voted to approve a new presentment describing additional alleged victims.

23. The Commonwealth filed a Criminal Information at CP-14-CR-2421-2011, alleging a total of twelve counts related to alleged Victims 9 and 10.

24. In addition, the Commonwealth filed a Criminal Information at CP-14-CR-2422-2011, alleging a total of forty counts related to alleged Victims 1-8. The allegations encompassed the time period of January 1994 through December 2008. The last alleged allegation of abuse in both Informations was December of 2008.

25. Sandusky posted bail and was released on December 8, 2011.

26. On December 13, 2011, Amendola waived Sandusky's preliminary hearing, and the charges were held for the Centre County Court of Common Pleas.

Centre County Trial Court Proceedings

27. The Commonwealth produced discovery to Sandusky on January 17, and 23, March 7, 12, and 27, April 27, May 4, 9, 14, 16, 18, 24, and 31, and June 4, 8, and 15, 2012.

28. Jury selection occurred on June 5 and 6, 2012, 146 days from Sandusky's formal arraignment on January 11, 2012.

29. Trial commenced on June 11, 2012.

30. A jury convicted Sandusky on June 22, 2012 of 45 counts against him.

31. Prior to sentencing, Sandusky's counsel, Karl E. Rominger, filed an interlocutory appeal, based on the collateral order doctrine, to challenge a protective order regarding the leak of discovery materials to the media; specifically, a tape-recorded interview of his son, Matt Sandusky, by police that occurred during Sandusky's trial. *Commonwealth v. Sandusky*, 70 A.3d 886 (Pa. Super. 2013). The Superior Court quashed in part and affirmed in part.

32. Trial counsel for Sandusky, Amendola and Rominger, both acknowledged during post-trial proceedings involving the leak that they had not reviewed Matt Sandusky's earlier grand jury testimony in which he testified in favor

of his father. *Sandusky*, 70 A.3d at 891-892 (citing N.T., 6/26/12, at 10, 14-15); *see also* N.T., 3/24/17, at 85.

33. Judge Cleland sentenced Sandusky on October 9, 2012 to an aggregate sentence of 30 to 60 years' imprisonment with credit for 112 days served.

The Original Direct Appeal

34. Sandusky sought reversal of his convictions and the judgment of sentence on direct appeal to the Superior Court on February 21, 2013, by timely filing a notice of appeal.

35. On October 2, 2013, fifteen days after oral argument, the Pennsylvania Superior Court affirmed the judgment of sentence. *See Commonwealth v. Sandusky*, 77 A.3d 663 (Pa. Super. 2013).

36. The Supreme Court of Pennsylvania denied allowance of appeal on April 2, 2014. *Commonwealth v. Sandusky*, 2014 Pa. LEXIS 882 (Pa. 2014). Sandusky's original judgment of sentence became final ninety days thereafter on July 1, 2014. 42 Pa.C.S. § 9545(b)(3); U.S. Sup. Ct. R. 13 (providing appellants ninety days to seek review with the United State Supreme Court).

The 2015-2017 PCRA Proceedings

37. Following completion of the original direct appeal process, Sandusky timely filed his original PCRA petition on April 2, 2015.

38. Sandusky filed an amended petition on May 6, 2015 and the Commonwealth filed a response on September 1, 2015.

39. Sandusky filed a supplemental amended petition with permission of the court on March 7, 2016.

40. The Commonwealth answered and Sandusky filed a response on April 11, 2016.

41. Judge Cleland scheduled argument on whether Sandusky was entitled to an evidentiary hearing on May 2, 2016.

42. At the close of argument on May 2, 2016, Judge Cleland, for the first time, disclosed that he had been present for an off-the-record nighttime meeting at the Hilton Garden Inn wherein the parties negotiated to waive Sandusky's preliminary hearing and provided his notes from that meeting.

43. Sandusky filed a motion to recuse, which Judge Cleland denied.

44. Sandusky also filed a request for *in camera* review of therapy notes of Michael Gillum and Cynthia MacNab, therapists who treated the alleged victims, and a brief in support on June 20, 2016.

45. Judge Cleland did not rule on that request.

46. Sandusky followed up with a brief discussing the inapplicability of the psychologist-patient privilege on September 1, 2016.

47. Judge Cleland conducted evidentiary hearings on August 12, 22, 23 and November 4, 2016 for a limited number of issues.

48. Judge Cleland recused himself on November 18, 2016.

49. Following assignment of a new judge on February 17, 2017, Judge Foradora, the new PCRA court conducted additional evidentiary hearings on March 24, 2017 and May 11, 2017 on each of Sandusky's claims.

50. Sandusky filed a Renewed Motion for *In Camera* Review of Therapy Notes seeking notes of Gillum and MacNab on April 10, 2017.

51. The court denied that request.

52. Sandusky also filed a Motion to Re-Open the Record and/or Admit Attached Emails As After-Discovered Evidence in the Nature of *Brady* Evidence related to emails discovered related to Michael McQueary and Jonelle Eshbach--the latter having authored the grand jury presentments, which was denied.

53. Judge Foradora denied Sandusky's PCRA claims on October 18, 2017.

54. Sandusky timely appealed.

55. The Superior Court remanded for re-sentencing but otherwise denied Sandusky's claims on February 5, 2019. *Commonwealth v. Sandusky*, 203 A.3d 1033 (Pa. Super. 2018).

56. Sandusky's timely petition for allowance of appeal was denied on November 22, 2019.

57. While Sandusky's appeal was pending before the Pennsylvania Supreme Court, Attorney Lindsay obtained a photocopy of the Kathleen McChesney diary, which detailed the Freeh Group investigation and its interactions with members of the prosecution team. McChesney had been part of the Freeh Group.

58. Thereafter, on November 23, 2019, the trial court re-sentenced Sandusky to the exact same time period of incarceration previously imposed. Restitution of \$95,047.88 was also added by the probation department.

59. Sandusky filed a timely post-sentence motion on December 2, 2019, which the trial court denied on January 31, 2020. The post-sentence motion failed to request a new trial based on the McChesney diary.

Post-Original PCRA After-Discovered Evidence - the McChesney Diary and Juror Issue

60. Following Sandusky's re-sentencing, Sandusky filed an additional timely direct appeal and raised a claim of after-discovered evidence.

61. The after-discovered evidence at issue included:

a photocopy of a diary allegedly maintained by Kathleen McChesney in her capacity as a member of the investigative team led by Louis Freeh, Esquire ("the Freeh team"), which was appointed by the Penn State Board of Trustees to conduct an independent inquiry into events surrounding Appellant's crimes; (2) "summaries" of alleged emails to and from various members of the Freeh team; and (3) an affidavit from Appellant's trial counsel concerning his responses to this alleged information.

Commonwealth v. Sandusky, 2021 Pa. Super. Unpub. LEXIS 1279, *15-16.

62. The after-discovered evidence also included evidence related to a juror that was selected for trial and had been interviewed by the Freeh Group and asserted **Brady** violations--Laura Pauley.

63. During the direct appeal, on February 4, 2020, Attorney Lindsay also received photocopies and summaries of emails between the Office of Attorney General and the Freeh Group concerning their interactions and cooperation.

64. Sandusky, on February 20, 2020 and February 22, 2020, sent correspondences to Attorney Lindsay requesting the filing of a motion relative to grand jury leaks, **Brady** claims, information concerning Michael Gillum's role and relationship with the prosecution team that had not been disclosed before trial, and tampering with evidence.

65. On March 10, 2020, Attorney Lindsay received a summary of an interview by the Freeh Group with Juror 0990, Laura Pauley, who was selected for Sandusky's trial and an affidavit from trial counsel Joseph Amendola.

66. Sandusky requested Attorney Lindsay to file a motion for new trial under Pa.R.Crim.P. 720 on or about March 16, 2020--immediately before the COVID-19 lockdowns.

67. Attorneys Lindsay and Lauer filed a motion for new trial based on after-discovered evidence with the Superior Court on May 9, 2020, including the

McChesney diary issue pertaining to the Freeh Group and prosecution team collaboration, potential grand jury leaks, and the Juror 0990-Laura Pauley issue.

68. Attorneys Lindsay and Lauer attempted to supplement the May 9, 2020 after-discovered evidence motion with a copy of the entire Freeh Group interview with Juror 0990, Laura Pauley, which was obtained after oral argument on October 10, 2020.

69. On April 21, 2021, A.J. Dillen participated in a podcast and disclosed information related to Attorney Andrew Shubin and therapist Cynthia MacNab.

70. The following day, April 22, 2021, Sandusky requested that Attorney Lindsay file a motion for new trial pertaining to the Dillen, Shubin and MacNab information and followed up with a May 1, 2021 correspondence to Attorneys Lindsay and Lauer concerning the information.

71. On May 13, 2021, the Superior Court ruled the after-discovered evidence related to the McChesney diary and Juror 0990 claims were not “promptly” raised and declined to reach the merits of those claims (as a direct result of ineffective assistance of prior appellate counsel).

72. However, the Superior Court remanded that same date on Sandusky’s challenge to his judgment of sentence concerning restitution.

73. Sandusky requested reargument on May 27, 2021, which was denied.

Prior After-Discovered Evidence Regarding S.S.

74. On June 14, 2021, Sandusky filed a motion pertaining to additional after-discovered evidence related to collusion between the Office of Attorney General and the Freeh Group, Juror 990 (Laura Pauley) and her interview with the Freeh Group, and the Dillen podcast.

75. Specifically, Sandusky obtained in civil discovery an interview conducted by Attorney Andrew Shubin with S.S., regarding alleged sexual abuse by Sandusky.

76. Sandusky attached the S.S. interview to his motion along with a corroborative transcript of an interview of A.J. Dillen in which Dillen provided recordings with Shubin and therapist MacNab.

77. No court conducted hearings on these after-discovered evidence claims.

78. The trial court did, however, conduct hearings on May 17, 2022 and May 25, 2023 related to imposition of restitution.

79. The trial court entered an Order denying Sandusky relief on all claims on June 27, 2023.

80. Sandusky timely appealed on July 25, 2023. The Superior Court affirmed the trial court order on September 19, 2024. *Commonwealth v. Sandusky*, 324 A.3d 551 (Pa. Super. 2024). Sandusky did not seek allowance of appeal with

the Pennsylvania Supreme Court. Sandusky's judgment of sentence became final thirty days thereafter on October 19, 2024. 42 Pa.C.S. §9545(b)(3).

81. Sandusky now files this timely PCRA petition within one year of discovery of newly-discovered facts/governmental interference and one year of the finality of his most recent judgment of sentence. 42 PA. CONS. STAT. §§ 9545(b)(1)& (b)(1)(i)(ii) & §9545(b)(2).

FACTUAL BACKGROUND³

THE 1998 Z.K. INVESTIGATION

82. In 1998, contrary to reports implying that Pennsylvania State University ("Penn State" or "Penn State University") covered up allegations of sexual misconduct on the part of Sandusky in 1998, law enforcement investigated an incident involving Sandusky and Z.K. (Alleged Victim 6), then a minor child.

83. Officer Ronald Schreffler interviewed Z.K. on May 4, 1998, after receiving a call from his mother, who informed police that her son and Sandusky had taken a shower in a public locker room shower at Penn State University.

84. Z.K. consistently maintained throughout that investigation that Sandusky did not sexually assault him.

³ Sandusky does not admit to any incriminating facts and maintains his actual innocence.

85. Dr. Alycia Chambers also interviewed Z.K. before a tape-recorded interview by police.

86. Z.K. did not say that Sandusky abused him in any manner.

87. During the recorded police interview, police asked Z.K. if Sandusky ever had an erection, which Z.K. denied.

88. Z.K. stated that Sandusky did not touch Z.K.'s private parts or ask him to touch Sandusky's penis.

89. Z.K. never revealed any illegal behavior.

90. On May 7, 1998, Jerry Lauro, an official with the regional Department of Public Welfare ("DPW") met with Detective Scheffler, and pursuant to the Child Protective Service Law ("CPSL"), informed him that because Sandusky was affiliated with the Second Mile, an agent of the Centre County Children and Youth Services agency, the regional DPW office would assume the investigation.

91. Lauro's supervisor, the next day, directed that a psychological exam be performed on Z.K.

92. Lauro also interviewed Z.K.'s mother.

93. The psychological exam was completed and turned over to Centre County CYS on May 20, 1998.

94. A psychologist, John Seasock, interviewed Z.K. for an hour regarding the incident and concluded that there was no indication of any type of child abuse.

95. After an extensive investigation that included police surreptitiously eavesdropping on conversations between Sandusky and Z.K.'s mother, which were not recorded, the Commonwealth did not file charges.

96. Z.K. continued to remain in contact with Sandusky into his adulthood, soliciting him for support to a mission trip to Mexico in 2010, and sending him text messages on Thanksgiving and Father's Day.⁴

97. At trial, Z.K. did not directly accuse Sandusky of sexual abuse; however, having obtained a lawyer, he implied that something may have occurred, but he simply did not remember it. (N.T., 6/14/12, at 8, 15-17, 26-27).

98. Z.K. claimed to have blacked out everything other than the shower. (*Id.* at 18, 27). Z.K.' civil attorney also made a public statement to Piers Morgan *during the trial* that the victims "create a bit of a Chinese wall in their minds. *They bury these events* that were so painful to them deep in their subconscious." <http://www.cnn.com/TRANSCRIPTS/1206/14/pmt.01.html>.

Aaron Fisher- Alleged Victim 1 Comes Forward and Meets Michael Gillum

99. In 2008, following a disagreement with his mother regarding her insistence that he go with Sandusky rather than with his friends, Aaron Fisher

⁴ The text message on Thanksgiving read, "Happy Thanksgiving, bro. I'm glad God has placed you in my life. You are an awesome friend. Love you." (N.T., 6/14/12, at 41-44). On Father's Day 2009, Z.K. sent a message that read, "Hey, Jerry, just wanted to wish you a happy Father's Day. Great things are yet to come." (N.T., 6/14/12, at 43).

(Alleged Victim 1), then fifteen, told his mother that Sandusky touched him inappropriately overtop his clothing. (*See e.g.*, N.T., 6/12/12, at 70-71).

100. Fisher's mother contacted the Central Mountain High School principal and guidance counselor on November 18, 2008.

101. Fisher met with the principal and guidance counselor the next day. He did not allege that Sandusky engaged in oral or anal sex. (N.T., 6/12/12, at 72; *Id.* at 153).

102. On November 20, 2008, Jessica Dershem, a Clinton County caseworker interviewed Fisher for one hour. (*Id.* at 154-156).

103. That interview was taped. Fisher did not disclose that sexual intercourse of any type occurred. (*Id.* at 72, 153-159; *see also* Original PCRA Appendix at 475, Dershem Report, 11/20/08).

104. Instead, Fisher stated that Sandusky cracked his back approximately thirty-times. (N.T., 6/12/12 at 155; *see also id.* at 72).

105. Fisher was then sent to Michael Gillum, a psychologist, who unbeknownst to Sandusky at the time was in financial straits.

106. In her report, Dershem wrote that Sandusky was involved in ten back cracking episodes, and notified Pennsylvania State Police of Fisher's allegation that Sandusky touched him over his clothing.

107. In that report she misstated that Fisher alleged Sandusky sexually abused or exploited him.

108. Gillum would acknowledge in a book he wrote with Fisher, *Silent No More*, that he wrote that report and provided it to Dershem.

109. Police then interviewed Fisher. (N.T., 6/12/12, at 157). Also present was Dershem.

110. Police intentionally did not tape-record the interview because such a recording would aid a defense attorney. (*Id.*). However, according to Dershem, Fisher denied that Sandusky touched Fisher's genitalia. (*Id.* at 157-158).

111. Dershem also reported to Gillum that Fisher denied that oral sex occurred. (*Id.* at 158).

112. Fisher continued to see Gillum and through these therapy sessions, as the result of coaching from Gillum, came to maintain that Sandusky sexually abused him.

113. In these sessions, Gillum told Fisher, "I know something terrible happened to you. I understand that you want it to stop and you want to get away from him and you're not sure if you want to take it further than that." (N.T., 3/24/17, at 151-152; *see also* *Silent No More*, at 64-65).

114. Gillum instructed Fisher that Sandusky was the exact profile of a predator. (N.T., 3/24/17, at 155, 159).

115. As of December 12, 2008, Fisher had not informed authorities that Sandusky acted criminally. (N.T., 6/12/12, at 158; *see also id.* at 72-73).

116. To the contrary, Fisher told State Police that Sandusky had not touched his penis, nor did oral sex transpire. (*Id.*).

117. Police interviews with four additional students with ties to Sandusky revealed no sexual allegations.

118. Sandusky himself was questioned in January of 2009. (*Id.* at 133, 164-174).

119. Dershem informed Sandusky on January 2, 2009, that he was the subject of a report of suspected child abuse. (*Id.* at 179).

120. Fisher had not at this time made any allegations relative to sexual misconduct.

121. Dershem and Clinton County CYS solicitor, Michael Angelelli, interviewed Sandusky. (*Id.* at 133, 164-174).

122. Sandusky acknowledged cracking Fisher's back, as well as hugging him and kissing him on the forehead the way a father does with a child.

123. He adamantly denied that anything sexual ever occurred.

124. Dershem, after a conference with service director Gerald Rosamalia and Angelelli, notified Childline.

125. The Clinton County District Attorney transferred the case to Centre County because the alleged conduct occurred in that county.

126. The Center County District Attorney had a conflict of interest and referred the case to the Office of Attorney General ("OAG").

127. The OAG assumed jurisdiction of the case on March 18, 2009.

The Thirtieth Grand Jury Investigation

128. The OAG submitted the case to the Thirtieth Statewide Investigation Grand Jury on May 1, 2009.

129. As part of the initial investigation, State Troopers would interview Frankie Probst, Frankie Aveni, and Matt Sandusky.⁵

130. All of these men originally adamantly denied that Sandusky ever abused them.

131. Although only witnesses and their attorneys are permitted before a grand jury, along with a court stenographer, the prosecution team, and law enforcement involved in the investigation, *see* 42 Pa.C.S. § 4549, Fisher's psychologist, Gillum, was permitted to attend Fisher's grand jury testimony.

⁵ Matt Sandusky came to be represented by Attorney Andrew Shubin. After trial, Matt Sandusky provided an interview with Oprah that explicitly stated that he had recovered repressed memories, claiming, "I didn't have the memory of--I didn't have these memories of the sexual abuse...All of these things start coming back to you, yes, [and] it starts to become very confusing for me and you try and figure out what is real and what you're making up." www.oprah.com/own-oprahprime/Matthew-Sandusky-on-Hearing-Victim-Testimony-Video.

132. Gillum and the prosecutor, Jonelle Eshbach, continued to coach Fisher after the first grand jury did not issue a presentment.

133. Fisher testified twice before the 30th Investigating Grand Jury, without any result.⁶

134. Gillum, according to his book, drafted or aided in drafting Fisher's testimony before the Thirty-Third Statewide Investigating Grand Jury, which Fisher read. This was not disclosed to trial counsel.

135. As noted, prior to Fisher's therapy with Gillum, he never acknowledged any sexual abuse. (N.T., 6/12/12, 72-74; *id.* at 153-159).

136. Fisher himself would later claim that he would dissociate with his body. *Silent No More*, at 22 ("I took myself out of my body and away from him and out of that basement room.").

137. Fisher asserted, based on Gillum's counseling, "I was good at pushing it [memories of abuse] all away...Once the weekends were over, I managed to lock it all deep inside my mind somehow. That was how I dealt with it until the next time. Mike has explained a lot of things to me since all his happened. He said that what I was doing is called compartmentalizing[.]" (*Id.* at 28).

⁶ During his grand jury testimony on November 16, 2009, Fisher originally denied that oral sex occurred until the prosecutor reminded him that he had previously stated that such occurred. (N.T., Grand Jury, 11/16/09, at 2-9).

138. Gillum asserted in his book with Fisher that “*Aaron managed to dissociate himself from the grim reality of abuse[.]*” (*Silent No More*, at 108).

139. Gillum posited that, “Emotional signs of trauma, however, can *remain locked within the victim’s psyche* as they search for the magic bullet to mask their pain.” (*Id.* at 217).

140. Gillum’s role as a *de facto* member of the prosecution team and vital role in shaping the allegations made by Fisher were not disclosed to Sandusky, nor was it known that Gillum faced bankruptcy and had begun to write a book with Fisher.

141. Gillum’s role with advising Jessica Dershem and police investigators was also not disclosed to Sandusky’s trial attorneys nor was Gillum’s extensive therapy with Fisher known or revealed to trial counsel before trial. Rather, it was merely disclosed that Gillum had been present for Fisher’s grand jury testimony.

142. By March 2010, Jonelle Eshbach circulated a draft grand jury presentment to her supervisors.

143. Her supervisors expressed serious concern about the likelihood of a successful prosecution due to problems with Fisher’s credibility, and the lack of other victims. (Moulton Report, 59-60).

144. On November 3, 2010, then Centre County Assistant District Attorney Stacy Parks Miller received an anonymous email tip suggesting that investigators

speak to Penn State assistant football coach Michael McQueary, as he “may have witnessed something involving Jerry Sandusky and a child that would be pertinent to the investigation.” (*Id.* at 66).

145. On December 14, 2010, Michael McQueary testified before the 30th Investigating Grand Jury.

146. McQueary’s testimony would be the subject of a materially false statement in the later presentment regarding McQueary allegedly witnessing an anal rape.

147. Thereafter, the OAG issued subpoenas to Penn State head football Coach Joe Paterno, Athletic Director Timothy Curley, and Vice President Gary Schultz.

148. The OAG informed counsel for Penn State University, who also represented that she was representing Mr. Curley and Mr. Schultz, that Mr. Curley and Mr. Schultz were not targets of the investigation.

149. This appears to have been deliberately misleading as Attorney Frank Fina later told then Supervising Grand Jury Judge Barry Feudale that they were looking into these high-ranking University officials. *Commonwealth v. Schultz*, 133 A.3d 294, 302 n.8 (Pa. Super. 2016).

150. No additional witnesses were presented to the Thirtieth Statewide Investigating Grand Jury by the time its term expired in January 2011.

151. On March 31, 2011, The Centre Daily Times and The Patriot-News published stories, written by Sara Ganim, describing information from the grand jury investigation of Sandusky.

Ronald Petrosky and the Unidentified "Victim" 8

152. The unlawful leak of grand jury information resulted in Ronald Petrosky, a former janitor, reporting a hearsay statement from another individual that Sandusky purportedly sexually assaulted a child in a shower at Penn State University.

153. That individual, James Calhoun, nonetheless, provided a tape-recorded statement to police denying that Sandusky was involved. That tape was not played at trial, and Calhoun did not testify due to alleged mental infirmity.

154. On May 19, 2011, Petrosky testified to the grand jury.

155. Petrosky's grand jury testimony, which relayed hearsay evidence, would be critically different than his later trial testimony. But the Commonwealth, in violation of *Brady*, would not disclose that material change.

156. Petrosky first told police that he recalled a fall 2000 shower incident in which James Calhoun told him that he saw Sandusky performing oral sex on a boy.

157. In his grand jury testimony, Petrosky would maintain that he cleaned the assistant coaches' locker room showers before encountering Calhoun.

158. After cleaning the assistant coaches' showers, not a small task, he unhooked his hose, wound it up, and then saw Calhoun.

159. Petrosky himself estimated it would take fifteen minutes before the chemical he used would take effect before he would spray the shower walls.

160. Petrosky then observed Sandusky exit the building with a boy before seeing Calhoun. This amounts to no small delay and would have possibly created a hurdle to introducing the statement of Calhoun as an excited utterance since he would have seen the alleged abuse approximately thirty minutes earlier before Petrosky cleaned the showers.

161. At trial, Petrosky's story would change, coincidently to aid the Commonwealth's attempt to overcome the prohibition against an excited utterance being introduced, where it was the only evidence of the alleged crime.

162. In this recollection, Petrosky waited for what he assumed was Sandusky and a boy to exit a shower in the *staff locker room*, not the *assistant coaches' locker room*.⁷

⁷ The Amended Criminal information set forth the location related to Victim 8 as being in the assistant coaches' locker room of the Lasch Building. See Counts 36-40 of Amended Criminal Information. As noted, the Commonwealth and its witness changed that location at trial without notice to Sandusky. Sandusky had no access to the Assistant Coaches' locker room in the Lasch Building in November of 2000 when Petrosky claimed the incident occurred and had built his defense on those charges around this fact. The Commonwealth's shift was yet another example of sandbagging by the prosecution and a violation of *Brady*.

163. This was significant because the Commonwealth argued that a course of conduct involving showers entitled them to use the hearsay statement since other alleged victims asserted that abuse occurred in that locker room.

164. Petrosky submitted that he then returned to clean the shower only to encounter Calhoun.

165. According to his trial story, Petrosky took Calhoun to a meeting room, where Calhoun told approximately five other janitors that he had seen Sandusky lick a young boy's penis.

166. Apparently, despite being right outside the shower area waiting to clean the shower, Petrosky heard nothing sexual transpire.

167. Calhoun apparently, however, managed to continue to clean the toilets in the shower area while seeing the abuse. Calhoun, a Korean War vet, also did not intervene. Of course, as noted, a taped statement by Calhoun existed in which he denied seeing Sandusky molest a child. Inexplicably, that evidence was not introduced by trial counsel.

B.S.H. (Alleged Victim 4)

168. The leaked disclosure of grand jury information also resulted in Attorney Benjamin Andreozzi, a civil attorney, contacting investigators regarding a new alleged victim.

169. Andreozzi had been contacted by the father of B.S.H.

170. B.S.H. had been highly involved with Sandusky and the Second Mile.

171. When police first asked to speak with B.S.H., he declined and said he needed to speak to his lawyer.

172. When police did interview B.S.H., Andreozzi, was present.

173. Police inadvertently recorded part of their interview. (N.T., 3/24/17, at 171-174, 181-183; N.T., 6/19/12, at 57-58).

174. Andreozzi asked police, while B.S.H. was not present, if they could tell B.S.H. that other kids had told them that sexual intercourse had occurred. (N.T., 6/19/12, at 57-58).

175. That trooper responded that he had done that with all of the other alleged victims. (*Id.*).

176. When B.S.H. returned, police informed him that other victims, about nine, had come forward and that what he was telling them was repeating almost word for word what others had already told them.

177. B.S.H.'s testimony before the grand jury would be markedly different than his recorded interview.⁸

⁸ The troopers, Corporal Scott Rossman and Corporal Joseph Leiter, interviewed most of the accusers. For example, in addition to B.S.H., Rossman interviewed at least Fisher, M.K., D.S., and J.S. (N.T., 6/18/12, at 30). Leiter interviewed at minimum B.S.H., Fisher, M.K., Z.K., D.S., S.P. (*Id.* at 42-43). Frequently Leiter and Rossman interviewed the accusers on multiple occasions with Leiter stating that he never interviewed anyone more than three times. (*Id.* at 43).

178. And B.S.H.'s trial testimony would be largely inconsistent with his interview and grand jury testimony. By this time, he was now in therapy with Fisher's therapist, Gillum.

179. After ten meetings with his attorney and police, B.S.H. in his trial testimony claimed that he performed oral sex on Sandusky approximately forty times and Sandusky had attempted anal sex with him in a shower. B.S.H.'s allegations included assertions of molestation that purportedly occurred in a new coach's shower between August 1, 1999 and December 22, 1999--a different location from the staff locker room.

180. B.S.H. also impossibly claimed that Sandusky would pick him up at his school or home two or three times per week between August 31, 1997 and July 31, 1999 to do activities, shower, and have oral sex. Sandusky, however, would have still been coaching and had extensive practice schedule obligations and football meetings during the relevant period. Sandusky only retired after the 1999 season and Penn State's Alamo Bowl game.

181. B.S.H. would assert that he had spent years burying the abuse in his mind. B.S.H. also posited that he had been abused some fifty times in the shower in the Lasch Building, which was impossible for the same reasons outlined in the prior paragraph.

182. B.S.H. also apparently was in therapy with Gillum, which was not disclosed to trial counsel before trial.

183. B.S.H. would make various inconsistent claims throughout the investigation and trial including telling police that Sandusky had fondled B.S.H.'s genitals but changing his trial testimony concerning the same, altering his story as to Sandusky wrestling with B.S.H. in a locker room, asserting that Sandusky had not succeeded in having anal intercourse but changing the account at trial, claiming that oral sex occurred in a sauna and then changing his story to say oral sex did not transpire in the sauna.

(Alleged Victim 7) D.S. Uncovers Forgotten Memories

184. Subsequent to publication of the grand jury information via the news media, a grand jury session was held on April 11, 2011.

185. During this session, Fisher testified for the third time, as well as four other witnesses; notably D.S.

186. Previously, D.S. had written favorably about Sandusky, stating on a scholarship application on June 15, 2004, "Jerry Sandusky, he has helped me understand so much about myself. He is such a kind and caring gentleman, and I will never ever forget him." (N.T., 6/13/12, at 159, 161).

187. During the grand jury proceeding, D.S. denied that Sandusky had ever touched or fondled him, (Exhibit C at 5/11/17 hearing), but his testimony would

change after he retained Attorney Shubin, who also represented J.S., R.R., S.S., and A.M--the alleged victim seen by Michael McQueary.⁹

188. D.S.'s trial testimony would be significantly different than his original grand jury testimony as he claimed Sandusky touched his penis, nipples, blew on his stomach, and grabbed him in the shower. (*See* N.T., 6/13/12, at 139-146).

189. He asserted that based on counseling he was now remembering things that he had not remembered. (*Id.* at 143, 152; *see also id.* at 119).

190. His testimony also revealed that he and Z.K. had been in contact and discussed whether each were remembering anything additional due to counseling.

191. After his original police interview, D.S. contacted therapists for psychological assistance. (N.T., 5/11/17 at 6).

192. After seeking therapy, D.S. came forward with more serious allegations and detailed memories.

193. D.S. testified specifically:

I had sort of blocked out that part of my life. Obviously, going to football games and those kinds of things, I had chose sort of to keep out in the open, so to speak. And then the more negative things, I had sort of pushed into the back of my mind, sort of like closing a door, closing—putting stuff in the attic and closing the door to it.

⁹ S.S. was the subject of the after-discovered evidence upon remand on the restitution issue but did not testify at trial because he denied being abused by Sandusky to authorities. A.M. also did not testify at trial, in part, because Shubin secreted him from authorities and according to the PCRA testimony of Joseph McGettigan, Jonelle Eshbach and Agent Anthony Sassano, because the prosecution did not believe A.M. (N.T., 8/23/12, at 22, 57, 59).

(N.T., 6/13/12, at 119).

194. D.S. added that, “That doorway that I had closed has since been reopening more. More things have been coming back and things have changed since that grand jury testimony. Through counseling and different things, I can remember a lot more detail that I had pushed aside than I did at that point.” (*Id.* at 143).

195. D.S. also maintained, “That testimony is what I had recalled at that time. Through counseling and through talking about different events, through talking about things in my past, different things triggered different memories and have had more things come back, and it’s changed a lot about what I can remember today and what I could remember before because I had everything negative blocked out.” (*Id.* at 152).

196. In a post-trial interview, he confirmed that his therapy sessions helped him to remember the alleged abuse. (N.T., 5/11/17, at 12).

197. During the prior PCRA proceedings, he again confirmed that therapy prior to his trial testimony had helped him to recall the events and led to his changed allegations. (*Id.* at 10-11, 16).

(Alleged Victim 5) M.K.’s Evolution and Recovered Memories

198. Police interviewed M.K., another alleged victim and friend of D.S’, on June 7, 2011. (Original PCRA Appendix at 484, Pennsylvania State Police Report, 6/9/11).

199. M.K., as with numerous other individuals, initially denied that any sexual improprieties occurred, saying that he had showered once with Sandusky and that, like his uncle, Sandusky would put his hand on his knee.

200. In a follow up June 16, 2011 interview, M.K. stated that he took a shower with Sandusky but nothing sexual happened.

201. M.K. changed his story on November 9, 2011.

202. For the first time, M.K. stated that Sandusky reached around him from behind and grabbed M.K.'s penis and that Sandusky took M.K.'s hand and placed it on Sandusky's erect penis and moved it up and down. This incident was alleged to have occurred in the East Area Locker Room.

203. As of November 11, 2011, M.K. had contacted civil counsel, Thomas Kline to represent him.

204. During his grand jury testimony, M.K. contended that the incident occurred in 1998 and reiterated that it transpired in the East Area Locker Room, but he would change his story at trial to 2001 or 2002. In addition, M.K. changed the entire location of the incident to the Lasch Building.

205. Specifically, after having already retained civil counsel, Attorney Kline, and likely learning that the value of civil settlements was dependent on alleged abuse occurring after 2001, M.K. on May 17, 2012, changed the date of the

alleged abuse to August 2001 and the location of the alleged abuse to the Lasch Building.

206. The prosecution would submit an amended bill of particulars on May 18, 2012 reflecting this drastic alteration. Notably, by this time, the Penn State University settlement subcommittee had developed settlement criteria for settlement of civil claims that included significantly higher settlement offers for allegations that purportedly occurred after February 2001.

207. On May 29, 2012, Attorney Kline would submit a joint motion requesting anonymity for his client, M.K. along with counsel for Z.K., B.S.H., J.S. and D.S., which included collaboration with Attorneys Shubin and Andreozzi.

208. Remarkably, at trial the prosecution still presented a drawing of the alleged area that had been made by M.K., which did NOT depict the Lasch Building shower area.

209. Post-trial M.K. would again change his story, resulting in an over six-million-dollar settlement.

210. M.K. submitted information relative to his civil claim that was grossly distinct from his trial testimony.

211. Not only had M.K. changed the date of the alleged first instance of purported abuse by years to increase the value of his claim, but he also alleged Sandusky sodomized him.

212. M.K. based the substantial changes between his *under oath* trial testimony and his civil claim on therapy received from Dr. Steven Cohen.

213. Specifically, in a civil Settlement Questionnaire, M.K. asserted, “As set forth in more detail in Part IV, *infra*, and in the February 25, 2013 psychiatric evaluation report by Steven R. Cohen, Ph.D. (attached as Exhibit ‘K’)

[M.K.] recently recalled the facts relating to the sodomy in the shower. While [M.K.] had not recalled these facts at the time of his trial testimony in June 2012, they are entirely consistent with, and an extension of, his prior testimony.” (Exhibit A).

214. It is believed and therefore averred that M.K. was in therapy prior to Sandusky’s criminal trial and that the therapy directly impacted his testimony.

(Alleged Victim 3) J.S.’s Changing Stories

215. On July 1, 2011, police questioned J.S., who was identified as victim 3.

216. J.S., in the initial interview, denied that anything untoward happened with him and Sandusky and actually stated, “I don’t believe any of this stuff, and I hope he is found not guilty.” (Original PCRA Appendix, at 492, Pennsylvania State Police Report, 7/19/11; *see also* N.T., 6/14/12, at 109, 114).

217. Notably, J.S. had at one time wanted to be adopted by Sandusky. Indeed, he admitted that, “I would pray he could call me, adopt me, or something.”

218. J.S. who had been in a group home and undergone psychiatric care also had myriad opportunities to make allegations against Sandusky and while alleging

that he had been abused by his mother's boyfriend, he made no allegations against Sandusky.

219. After retaining Attorney Shubin (and apparently undergoing therapy with Cynthia MacNab) his story dramatically changed.

220. He testified before the grand jury on August 18, 2011, claiming that Sandusky had twice touched his penis through his shorts. (Original PCRA Appendix, at 706; N.T., Grand Jury, 8/18/11, 10-14, 17-19, 21-23; N.T., 6/14/12, at 120-123).

221. Again, after meetings with Shubin (and apparently MacNab), his trial testimony would be materially different. (See N.T., 6/14/12, at 119-122).

222. He asserted that Sandusky touched him inappropriately almost fifty times and washed his buttocks. (*Id.* at 108, 120).

223. J.S. testified that "Everything that's coming out now is because I thought about it more. *I tried to block this out of my brain for years.*" (*Id.* at 122).

224. According to J.S., he "told some of [his accusations] to the grand jury, what *I recalled back then.*" (*Id.* at 121).

S.P., (Alleged Victim 9)

225. Another alleged victim, S.P., in his first interview denied being abused. (*Id.* at 224).

226. S.P. testified before a grand jury in December 2011.

227. He maintained that Sandusky essentially kept him in the Sandusky's basement and forced him to perform oral sex and that Sandusky attempted to anally rape him approximately sixteen times. (N.T., 12/5/11, at 17-20, 31-32; PCRA Appendix, at 715).

228. According to S.P., *Mrs. Sandusky was home on these occasions but despite his screams she never came to his aid!* (N.T., 6/14/12, at 234).

229. At trial, S.P. claimed that Sandusky actually withheld food from him for entire weekends. (*Id.* at 235).

230. Remarkably, before S.P. made these allegations, Sandusky asked him to serve as a character witness.

231. As with the other accusers, S.P. sought (and received) extensive remuneration from Penn State University. Indeed, S.P. received the largest settlement of any Sandusky accuser.

R.R., (Alleged Victim 10)

232. R.R. also came forward after the initial charges.

233. He had known J.S. and was his roommate at the Second Mile summer camp. (N.T., 6/13/12, at 40).

234. Like J.S. and numerous other accusers, R.R. retained Attorney Shubin.

235. R.R. first maintained that Sandusky groped him in a swimming pool. (PCRA Appendix, at 552).

236. He added to that story, claiming that he refused to perform oral sex on Sandusky in a silver convertible, which Sandusky never owned.

237. In his later trial testimony, he would set forth that Sandusky performed oral sex on him in the Sandusky's basement and claimed multiple instances of abuse that he did not disclose in prior interviews. (N.T., 6/13/12, at 32, 40-41, 46, 49-50, 56-59, 63-67).

Sandusky's Medical Condition

238. Unbeknownst to the accusers, Sandusky had atrophied testicles and suffered from extraordinarily low levels of testosterone.

239. Not a single accuser described Sandusky's genitalia to match the medical condition that he suffered from nor requested any medical information regarding potential sexually transmitted diseases.

After-Discovered Civil Questionnaires

240. Although some accusers falsely denied having civil attorneys during their testimony, or claimed to be unclear about their attorneys' engagements, shortly after Sandusky's convictions and before his sentencing, the accusers' civil attorneys submitted claims to Penn State making demands for millions of dollars in damages.

241. In addition to the eight individuals who testified at trial, more individuals provided notice of claims to Penn State seeking large scale remuneration based on false claims of abuse by Sandusky.

242. The claimants provided civil questionnaire forms to Penn State.

243. After the completion of his initial PCRA process, Sandusky obtained the civil questionnaire forms as part of the civil discovery process in a civil matter filed against him and Penn State.

244. A.M., who prosecutors claimed during the original PCRA proceedings that they did not believe, claimed to be both Victim 2 and Victim 8 in his civil intake questionnaire, falsely asserting that he was abused by Sandusky and that a janitor witnessed him engaging in oral sex with Sandusky in the Lasch Building showers. (Exhibit B).

245. In his questionnaire, reference was made to therapy notes that indicated that Myers, "hopes treatment will help him have some freedom from the memories that keep coming back." (Exhibit B).

246. A therapist, likely Cynthia MacNab, claimed, "He appeared to readily disassociate when relating difficult things but did appear to come back into the room relatively quickly as well." (Exhibit B).

247. B.S.H., alleged Victim 4, included within his civil questionnaire that he was being treated by Michael Gillum, and requested over \$10 million in damages. (Exhibit C).

248. D.S., whom the prosecution continuously falsely maintained did not receive therapy to assist in his recollection and memory of abuse, set forth in his

civil questionnaire that, "additional information will become available as time goes on and this victim is able to process the abuse and break down barriers to memory formed by coping mechanisms developed to survive the horrific traumas endured." (Exhibit D).

249. J.S. who was represented by the same attorneys as D.S., and whom Attorney Shubin referred all of his clients too--Attorneys Joel Feller, Matthew Casey and Shannon Levin, included identical language relative to J.S. as D.S., stating, "additional information will become available as time goes on and this victim is able to process the abuse and break down barriers to memory formed by coping mechanisms developed to survive the horrific traumas endured." (Exhibit E).

250. According to J.S.'s questionnaire, "[v]ery little of the sexual abuse suffered by [J.S.] was elicited during Sandusky's criminal trial." (Exhibit E).

251. All of the Shubin/Feller clients, were in therapy with Cynthia MacNab, who believed the accusers "dissociated" and repressed memories of the abuse.

252. M.K.'s civil questionnaire revealed that he changed the time and location of the so-called first instance of abuse by Sandusky from his original account and for the first time, in order to increase the value of his claim, maintained that Sandusky sodomized him. (Exhibit A).

253. Despite the prosecutions adamant (false) claims that none of the accusers' memories and/or accounts were aided by therapy, M.K.'s civil

questionnaire explained M.K.'s new claim, as follows: "[M.K.] recently recalled the facts relating to the sodomy in the shower. While [M.K.] had not recalled these facts at the time of his trial testimony in June 2012, they are entirely consistent with, and an extension of, his prior testimony." (Exhibit A).

254. According to M.K., "a recent experience in the shower with his girlfriend triggered 'an intense flashback and recollection of being raped.'" (*Id.*).

255. M.K.'s therapist posited, "It is not uncommon for victims of sexual assault to block out memories and details of the event, but have flashbacks later in life and recall the details that have been long suppressed." *Id.*

256. These civil questionnaires were not presented by prior appellate/remand counsel despite being consistent with the Dillon/MacNab tapes and Shubin/S.S. interview. (*See* Exhibits A-I).

257. The civil questionnaires, at minimum, raise questions of fact as to how therapy aided in the accusers' testimony and recall of alleged abuse at Sandusky's trial and the Commonwealth's knowledge thereof and failure to disclose it.

After-Discovered Evidence: R.R. Affidavit

258. On June 30, 2025, R.R., alleged Victim 10, came forward with new evidence.

259. According to R.R., he was "approached by state investigators who told me that my role was critical to stopping a predator. They emphasized that other

alleged victims were reluctant to come forward and repeatedly encouraged me to believe that Mr. Sandusky had molested me--despite my lack of clear or certain memory of any such conduct.” (Exhibit J, ¶ 4).

260. R.R. indicated that, “[t]hroughout the pretrial process, I was told--both directly and indirectly--that trauma may have fragmented my memory, and that I could safely affirm details I did not fully recall. I was assured this was common and even expected.” (Exhibit J, ¶ 7).

261. R.R. maintained that his account changed over time as “the result of emotional strain, repeated exposure to leading questions, intense investigative pressure and psychological manipulation.” (Exhibit J, ¶ 8).

262. According to R.R., he was coached extensively and asked to revisit and reframe his allegations. (*See id.* at ¶ 10).

263. He set forth that he “was misled repeatedly during the process, particularly by prosecutor Joe McGettigan.” (*Id.* at ¶ 16).

264. R.R. has now stated that his testimony was “not willfully false, but induced under extreme psychological and institutional pressure.” (*Id.* at ¶ 17).

265. R.R.’s account establishes that his allegations were based on suggestive leading questioning, prosecutorial coercion and influence, confirmatory bias and memory manipulation, which permeated throughout each of the accusers as well.

266. R.R.’s recantation affidavit entitles Sandusky to an evidentiary hearing.

After-Discovered Evidence: McGettigan's Manipulations and Financial Incentives

267. After the Superior Court affirmed Sandusky's judgment of sentence on September 19, 2024, on October 2, 2024, A.Q., the mother of S.P., alleged Victim 9, provided a Declaration relative to her interactions with Prosecutors Frank Fina and Joseph McGettigan to investigative journalist Frank Parlato.

268. A.Q. also testified at trial.

269. At trial, she was asked by McGettigan if Sandusky ever gave S.P. gifts and "[d]id he ever give him clothes?"

270. According to A.Q., *prior to her testimony*, McGettigan instructed her "to mention that [she] wished Mr. Sandusky would have gotten [S.P.] underwear and socks instead of Nike gear." (Exhibit K, Affidavit of A.Q., at 6).

271. A.Q., who was sequestered, was unaware of her son's prior testimony that he had disposed of underwear after allegedly being abused.

272. McGettigan wished for the jury to infer that Sandusky abused S.P. causing him to dispose of his underwear.

273. As a result, and in response to McGettigan's questioning, consistent with what he instructed her to mention, A.Q. testified, "Oh yeah. He gave him clothes. He gave him gifts. I wish he would have just gave him some underwear to replace the underwear that I could never find in my laundry."

274. Unbeknownst to the jury, S.P. had "hidden his underwear and socks since he was three or four, well before he met Mr. Sandusky." (Exhibit K, Affidavit of A.Q., at 7).

275. In her affidavit, A.Q. outlined that S.P. had consistently represented to her that Sandusky had never molested him but "after several lengthy meetings with McGettigan, [S.P.'s] story changed from one in which Mr. Sandusky had not abused him to one where he did." (Exhibit K, Affidavit of A.Q., at 2).

276. According to A.Q., at or around the time of trial, McGettigan also told S.P. that he "will never have to work a day in your life."

277. And when S.P. was asked at trial, he testified that McGettigan was his attorney. (N.T., 6/14/12, at 225) (Q. "Did your mom tell you she was going to get a lawyer?" A. "No, you're my lawyer." Q. "Are you going to pay me?" A. "Yeah, I'm going to try.").

278. She further outlined that S.P. testified inaccurately as to the number of times that he visited the Sandusky household.

279. According to S.P., he visited Sandusky's home 100 to 150 times between 2005 and into 2008 or 2009 and claimed to have stayed every weekend of the month during that period.

280. The prosecution knew or should have known this was impossible since Aaron Fisher also claimed to have spent almost all weekends at the Sandusky residence during that exact same time frame yet neither referenced one another.¹⁰

281. S.P., according to his mother, did not stay at Sandusky's every weekend for that period of time.

282. A.Q.'s affidavit notes that S.P. "was not alone during his visits with Mr. Sandusky; other boys were almost always present, which would make the alleged circumstances of repeated abuse less plausible." (Exhibit K).

283. She maintained that her son's testimony that Sandusky "held him captive in his basement every weekend for three years is not plausible and is not true." (*Id.* at 4).

284. According to A.Q., "if [S.P.] stayed overnight at Mr. Sandusky's house, it was infrequent, and was always after a home Penn State football game. On [one] or twos [sic] occasion[s], Mr. Sandusky took [S.P.] to visit [Sandusky's] mother in the nursing home and, on Sunday, to attend church. I was fully aware of [S.P.'s] activities, and I would have noticed if he had been away from home every weekend, as he claimed." (*Id.* at 4-5).

¹⁰ Notably, Fisher's mother also disclosed after trial that Fisher testified inaccurately at trial as to the frequency in which Fisher spent time with Sandusky. *See* Exhibit O, Parlato Affidavit and Attached Screenshots. This evidence was also unavailable at the time of trial.

285. She maintained that to the best of her recollection S.P. “visited Mr. Sandusky no more than 10-15 times, not 100-150 times as he testified, and stopped seeing Mr. Sandusky when he was 15, not 16, as he said.” (*Id.* at 5).

286. A.Q. highlighted that S.P.’s “story changed only after multiple meeting with the prosecution[.]” (*Id.*).

287. The prosecution was aware that S.P. had not visited Sandusky’s residence 100 to 150 times and that Sandusky did not have a sound-proof basement.

288. In addition, McGettigan, while a Deputy Attorney General and prosecuting Sandusky, facilitated an introduction between S.P. and his mother and civil attorney Dennis McAndrews to assist S.P. regarding planned civil claims against Penn State. (*Id.* at 8).

289. McGettigan joined Mr. McAndrews law firm on or about April 11, 2013, upon leaving the Office of Attorney General. McAndrews and McGettigan had previously worked together as Delaware County prosecutors.

290. Prior to Sandusky’s sentencing, Attorney McAndrews arranged for Attorney Stephen Raynes to file a notice of claim against Penn State on behalf of S.P.

291. Penn State paid S.P. a settlement in the amount of \$20 million on April 28, 2015.

292. Attorney McAndrews set up a trust fund for S.P. to manage the settlement money, including a trust for S.P.'s mother. (Exhibit L; Exhibit M).

293. The trust for S.P. established a "Trust Protective Committee" with authority over the trust. (Exhibit M).

294. Frank Fina served as one member of the Trust Protective Committee for S.P.'s trust along with McGettigan's paramour--Gay Warren. (Exhibit M).

295. The Trust Protective Committee had authorization to remove and replace the trustee and any distribution in the trust of over \$100,000 required express written approval of two members of the Trust Protective Committee. (Exhibit M).

296. In addition, in order for S.P. to assume control over his assets and terminate the trust, two Trust Protective Committee members must provide a recommendation to do so.

297. The Trust Protective Committee also was to receive reasonable hourly compensation along with an additional \$5,000.00 in yearly compensation.

298. Attorney McAndrews and McGettigan also established a power of attorney for S.P., using Chris Malanga, who could make legal and financial decisions on behalf of S.P.

299. Attorneys McAndrews and McGettigan, along with Malanga, appointed therapists to live with S.P.

300. Also, between the filing of the notice of claim and receipt of the settlement, McGettigan and Mr. McAndrews helped facilitate providing large amounts of funds to S.P. from a loan taken out with U.S. Claims. (Exhibit N).

301. S.P.'s civil litigation team also provided money to S.P. and his mother to move to homes in Malvern, Pennsylvania and also provided S.P. with money upon his request.

302. According to A.Q., at one point, S.P. was arrested for marijuana related charges and with the help of McGettigan and Attorney Frank Fina it was arranged for S.P. to move to Colorado. (Exhibit K).

303. Based on A.Q.'s account, and the trust documents attached hereto, McGettigan and Fina significantly financially benefited from S.P.'s civil settlement.

LEGAL STANDARD

304. To be entitled to relief under the PCRA, a petitioner needs to show, by a preponderance of the evidence, that his conviction resulted from ineffective assistance of counsel, a violation of his constitutional rights, and/or the unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced. *See* 42 Pa.C.S. § 9543(a)(2).

305. The preponderance of the evidence standard is low; indeed, it is the lowest burden of proof and only requires the evidence to tip the scale slightly in

one's favor. *Commonwealth v. A.R.*, 990 A.2d 1, 4 n.4 (Pa. Super. 2010), *affirmed*, 80 A.3d 1180 (Pa. 2013).

306. Yet, the PCRA statute's preponderance standard is unconstitutional, and a petitioner need not show ineffectiveness by even the minimal preponderance standard. *Nix v. Whiteside*, 475 U.S. 157, 175 (1986) ("a defendant **need not establish** that the attorney's deficient performance **more likely than not** altered the outcome in order to establish prejudice under *Strickland*") (emphases added).

307. In this respect, the Pennsylvania Supreme Court has stated, "This Court has characterized a preponderance of the evidence as tantamount to a 'more likely than not' inquiry[.]" *Povacz v. State PUC*, 280 A.3d 975, 1006 (Pa. 2022).

308. Thus, the constitutional standard for establishing post-conviction prejudice is even *less than the minimal preponderance of the evidence standard* outlined in the PCRA statute.

309. Sandusky requests an evidentiary hearing on each of his claims.

310. A PCRA court, in determining whether an evidentiary hearing is warranted on an issue must review the entire record to determine if a genuine issue of material fact exists. *See* Pa.R.Crim.P. 907; Pa.R.Crim.P. 908; *cf.* Pa.R.Crim.P. 909.

311. Accepting as true the factual averments in his petition and considering all of the documents that are part of the record, as the Court must, his claims are

neither patently frivolous nor are they the types of claims that if the facts are proven could not, as a matter of law, entitle him to relief. Comment to Rule 907 (“To determine whether a summary dismissal is appropriate, the judge should thoroughly review the petition, the answer, if any, and all other relevant information that is included in the record.” Only if, “after this review, the judge determines that the petition is patently frivolous and without support in the record, or that the facts alleged would not, even if proven, entitle the defendant to relief, or that there are no genuine issues of fact,” can a judge dismiss the claim without a hearing); *see also Commonwealth v. Miller*, 102 A.3d 988, 992 (Pa. Super. 2014).

312. Sandusky is entitled to an evidentiary hearing on his claims.

ISSUE I.

Sandusky was denied due process of law and is entitled to a new trial based on after-discovered evidence based on the recantation and affidavit of R.R.

313. The prior paragraphs are incorporated herein by reference.

314. This claim is timely filed within one year of learning of the after-discovered evidence/newly-discovered facts where R.R.’s affidavit was provided on June 30, 2025.

315. As it relates to after-discovered evidence, the Pennsylvania Supreme Court has posited that a petitioner must demonstrate that the evidence “(1) could not have been obtained prior to the conclusion of the trial by the exercise of reasonable diligence; (2) is not merely corroborative or cumulative; (3) will not be used solely

to impeach the credibility of a witness; and (4) would likely result in a different verdict if a new trial were granted.” *Small, supra* at 972.

316. R.R.’s affidavit could not have been obtained before the conclusion of trial.

317. The information contained in R.R.’s affidavit is not cumulative or corroborative of evidence presented at trial.

318. The evidence also is not solely impeachment evidence, but goes to the heart of the truthfulness of R.R.’s allegations against Sandusky at trial.

319. The information provided by R.R. would have led to a different outcome at trial to at minimum all of the charges in which R.R. was identified as a victim.

320. Sandusky is entitled to a hearing and/or a new trial.

ISSUE II.

Sandusky was denied due process of law and is entitled to a new trial based on after-discovered evidence that Prosecutors Joseph McGettigan and Frank Fina profited from abuse allegations made by S.P. and assisted in procuring him a civil attorney and in setting up a trust fund for S.P. in which Fina served as a trustee along with McGettigan’s paramour.

321. The prior paragraphs are incorporated herein by reference.

322. This claim is timely filed within one year of learning of the after-discovered evidence/newly-discovered facts, which were disclosed on October 2, 2024.

323. Joseph McGettigan and Frank Fina financially profited from abuse allegations made by S.P. and introduced S.P. to civil attorneys during the course of Sandusky's criminal proceedings to facilitate a civil suit against Penn State.

324. Questions of fact also exist as to McGettigan's (and Fina's) coaching S.P. to make claims against Sandusky.

325. Evidence that McGettigan and Fina financially profited from the allegations of S.P. and was instrumental in obtaining civil counsel for S.P. prior to Sandusky being sentenced, where S.P. claimed at trial he did not have civil counsel, is not evidence that would be solely used for impeachment purposes.

326. This evidence is not cumulative or corroborative of any evidence that was introduced at trial.

327. This evidence also could not have been learned prior to the conclusion of trial or sentencing as it was not disclosed and was intentionally withheld.

328. Notably, the original prosecution team, Frank Fina and McGettigan, already have been judicially determined to have intentionally withheld from trial counsel that the accusers were changing their allegations.

329. Sandusky has exercised due diligence in attempting to learn of this new evidence.

330. Evidence that the prosecution had a financial incentive and intended to and ultimately did assist S.P. with obtaining an enormous financial settlement could

have resulted in the outcome of trial and/or Sandusky's prior PCRA proceedings being different.

331. Questions of fact exist also exist as to how Attorneys McGettigan and Fina influenced not just S.P. and R.R., but all other accusers and testimony of other Commonwealth witnesses such as Ronald Petrosky and the extent to which McGettigan and Fina profited from S.P.'s allegations and the role they played in securing civil counsel for S.P. prior to and/or during Sandusky's trial.

332. Sandusky is entitled to an evidentiary hearing and/or new trial on this claim.

ISSUE III.

Sandusky was denied due process of law and is entitled to a new trial based on after-discovered evidence that the prosecution manipulated the testimony of S.P. and Joseph McGettigan instructed S.P.'s mother to testify related to wishing that Sandusky would have bought S.P. underwear.

333. The prior paragraphs are incorporated herein by reference.

334. This claim is timely filed within one year of learning of the after-discovered evidence/newly-discovered facts/ governmental interference.

335. Sandusky could not have learned prior to or during trial that McGettigan improperly coached and instructed S.P.'s mother to testify concerning Sandusky purchasing S.P. underwear to make it appear that S.P. threw away his underwear because Sandusky had anally raped S.P.

336. Sandusky could not have learned prior to or during trial that McGettigan and other Commonwealth actors manipulated the testimony of S.P.

337. The prosecution knew or should have known that S.P. falsely claimed that the Sandusky basement was sound proof.

338. The prosecution knew or should have known that S.P. could not have been present at the Sandusky residence almost every weekend for a period of over three years when Aaron Fisher also claimed to have been present on those same occasions and neither Fisher nor S.P. referenced being together at the Sandusky residence on the purported hundreds of times that they stayed at the Sandusky home.

339. The evidence relayed by A.Q. concerning the prosecution's coaching of her son and McGettigan's instructions to her to testify concerning wanting Sandusky to purchase S.P. underwear is not cumulative or corroborative of evidence introduced at trial.

340. Evidence of prosecutorial misconduct also is not solely impeachment evidence.

341. Attorney McGettigan's course of conduct in manipulating testimony of witnesses including but not limited to A.Q., S.P., R.R. (and Ronald Petrosky) along with the already court determined failures to disclose known changes in witnesses' testimony, raises significant questions concerning prosecutorial malfeasance.

342. The above-referenced evidence of prosecutorial misconduct could have led to a reasonable probability of a different outcome at trial.

ISSUE IV.

Prior Appellate/Remand Counsel was ineffective in failing to timely present after-discovered evidence of the photocopy of a diary maintained by Kathleen McChesney in her capacity as a member of the investigative team led by Louis Freeh, Esquire and "summaries" of emails to and from various members of the Freeh team, and evidence concerning the Freeh team's interview of an individual who became a Sandusky juror.

343. The prior paragraphs are incorporated herein by reference.

344. This claim is timely filed within one year of the finality of Sandusky's judgment of sentence on October 19, 2024, and is being brought forth at the first opportunity in which Sandusky was not represented by prior appellate/remand counsel.

345. Sandusky could not have raised this claim earlier as ineffectiveness claims cannot be raised on direct appeal and the information was not discovered until after the completion of Sandusky's prior PCRA proceedings.

346. To sustain an ineffectiveness claim, a petitioner must demonstrate: (1) the underlying claim is of arguable merit; (2) counsel had no reasonable strategic basis for his or her action or inaction; and (3) that, but for the errors and omissions of counsel, there is a reasonable probability that the outcome of the proceedings would have been different. *Commonwealth v. Spatz*, 896 A.2d 1191, 1209-10 (Pa. 2006).

347. “A reasonable probability ‘is a probability sufficient to undermine confidence in the outcome.’” *Commonwealth v. Stewart*, 84 A.3d 701, 707 (Pa. Super. 2013) (*en banc*). “[T]he ‘reasonable probability’ test is not a ‘stringent one[.]’” *Id.* at 715.

348. Whether a claim has arguable merit is a question of law. *See Stewart, supra* at 707.

349. A claim has arguable merit when the facts upon which it is based, if true, could entitle the petitioner to relief. *Stewart, supra*.

350. Ordinarily, “where matters of strategy and tactics are concerned, counsel’s assistance is deemed constitutionally effective if he chose a particular course that had some reasonable basis to effectuate his client’s interests.” *Commonwealth v. Colavita*, 993 A.2d 874, 884 (Pa. 2010) (internal citations and quotations omitted).

351. It is generally improper to attribute a reasonable basis for counsel’s actions or inaction absent an evidentiary hearing. *Commonwealth v. Duffey*, 855 A.2d 764, 775 (Pa. 2004) (court “should refrain from gleaning whether . . . a reasonable basis exists” absent a hearing); *Commonwealth v. McGill*, 832 A.2d 1014, 1023 (Pa. 2003) (“the court is not to glean, surmise, or speculate with regard to the strategy of counsel except in those rare instances where his strategy is clear and obvious from the record under review.”).

352. Whether a petitioner suffered actual prejudice is a mixed question of law and fact. *Commonwealth v. Martin*, 5 A.3d 177, 197 (Pa. 2010).

353. Prior appellate counsel was ineffective in failing to timely present after-discovered evidence related to the McChesney diary and the Freeh Group's interview of an individual who became a juror at Sandusky's trial--Laura Pauley.

354. Prior appellate counsel raised the aforementioned issues on appeal to the Superior Court on May 9, 2020; however, that Court ruled that Sandusky's counsel did not timely present those issues.

355. There could be no reasonable basis for failing to timely pursue these claims where counsel sought to litigate them before the court.

356. The McChesney diary information and emails establish that the prosecution was engaged in leaking information and violating grand jury secrecy.

357. It further revealed that a juror selected for the Sandusky trial, Laura Pauley, had been interviewed by the Freeh Group and expressed a belief that Sandusky was guilty of the crimes charged.

358. The Commonwealth's failure to provide this information before trial and during Sandusky's prior PCRA proceedings was also a *Brady* violation.

359. The United States Supreme Court in *Brady v. Maryland*, 373 U.S. 83 (1963), held that prosecutorial withholding of material evidence that is exculpatory or impeachment evidence violates due process.

360. *Brady* claims are cognizable under 42 Pa. C.S. § 9543(a)(2)(vi). *See also Commonwealth v. Simpson*, 66 A.3d 253, 264 n.16 (Pa. 2013).

361. “[T]o establish a *Brady* violation, a defendant has the burden to prove that: (1) the evidence at issue was favorable to the accused, either because it is exculpatory or because it impeaches; (2) the prosecution has suppressed the evidence, either willfully or inadvertently; and (3) the evidence was material, meaning that prejudice must have ensued.” *Commonwealth v. Bagnall*, 235 A.3d 1075, 1084 n.10 (Pa. 2020).

362. In *Kyles v. Whitley*, 514 U.S. 419 (1995), the United States Supreme Court opined that a prosecutor’s *Brady* obligations extend to material in the control of the government and not solely materials in the prosecutor’s office. *See also Commonwealth v. Burke*, 781 A.2d 1136, 1142 (2001) (applying *Kyles v. Whitley*, *supra.*).

363. That is, material within the knowledge of law enforcement is attributed to the prosecution, which is deemed to have constructive knowledge of such information. *See id.*; *see also Youngblood v. West Virginia*, 547 U.S. 867, 869-70 (2006) (“*Brady* suppression occurs when the government fails to turn over even evidence that is known only to police investigators and not to the prosecutor.”).

364. *Brady* material, is not limited only to exculpatory evidence; rather, evidence that tends to go towards impeaching the prosecution’s witnesses must also

be disclosed under *Brady*. See *Napue v. Illinois*, 360 U.S. 264, 269, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959); *Commonwealth v. Strong*, 761 A.2d 1167, 1171 (Pa. 2000).

365. *Brady* obligations extend to and include PCRA proceedings. *Commonwealth v. Williams*, 732 A.2d 1167, 1175–76 (Pa. 1999) (“the Commonwealth’s obligations under *Brady* continue through all stages of the judicial process.”); Cf. *cf. Bracey v. Superintendent Rockview SCI*, 986 F.3d 274, 293 (3d Cir. 2021) (“the defendant’s ‘reasonabl[e] expect[ation]’ that the government will comply with *Brady*, does not evaporate upon conviction or after trial. Rather, unless and until there are reasons to think otherwise, that reasonable expectation continues past trial, into postconviction proceedings and beyond.”).

366. Indeed, “after a conviction the prosecutor also is bound by the ethics of his office to inform the appropriate authority of after-acquired or other information that casts doubt upon the correctness of the conviction.” *Imbler v. Pachtman*, 424 U.S. 409, 427 n. 25 (1976).

367. In addition, “the OAG’s *Brady* obligation extends to exculpatory evidence known to the DA’s Office.” *Bagnall*, 235 A.3d at 1090.

368. *Brady* evidence is not required to be admissible evidence to be grounds for merits-based relief. *Commonwealth v. Johnson*, 174 A.3d 1050, 1056 (Pa. 2017) (“The Commonwealth’s claim that materiality hinges upon admissibility is based upon a misreading of *Wood v. Bartholomew*, 516 U.S. 1, 116 S.Ct. 7, 133

L.Ed.2d 1 (1995)...Contrary to the Commonwealth's suggestion, *Wood* does not stand for the proposition that undisclosed impeachment evidence must be admissible (or lead to the discovery of admissible evidence) before it can be considered material.”);¹¹ *Commonwealth v. Willis*, 46 A.3d 648, 670 (Pa. 2012) (“we hold that admissibility at trial is not a prerequisite to a determination of materiality under *Brady*.”); *Commonwealth v. Ly*, 980 A.2d 61 (Pa. 2009); *Commonwealth v. Green*, 640 A.2d 1242, 1244 (Pa. 1994); *Dennis v. Sec’y, Pennsylvania Dep’t of Corr.*, 834 F.3d 263, 307 (3d Cir. 2016) (“The Pennsylvania Supreme Court’s characterization of admissibility as dispositive under *Brady* was an unreasonable application of, and contrary to, clearly established law as defined by the United States Supreme Court.”); *see also Dennis*, 834 F.3d at 306 (“in appending an admissibility requirement onto *Brady*, the Pennsylvania Supreme Court acted contrary to clearly established law, as defined by the United States Supreme Court.”); *Johnson v. Folino*, 705 F.3d 117, 130 (3d Cir. 2013); *Maynard v. Gov’t of Virgin Islands*, 392 F. App’x 105, 115 (3d Cir. 2010) (citing *Ellsworth v. Warden*, 333 F.3d 1, 5 (1st Cir. 2003) (“[W]e think it plain that evidence itself inadmissible could be so promising a lead to strong exculpatory evidence that there *could* be no justification for withholding it.”), and *Wright v. Hopper*, 169 F.3d

¹¹ The Supreme Court in *Lambert* incorrectly held that *Brady* evidence must be admissible to entitle party to relief on the merits. That aspect of the decision has properly been disavowed by that Court in subsequent decisions.

695, 703 (11th Cir. 1999) (“Inadmissible evidence may be material if the evidence would have led to admissible evidence.”)).

369. As Justice Donohue has opined, “A prosecutor's duty to act as a minister of justice does not end when a conviction is obtained. This role, and the responsibilities attendant to it, extend into the appellate and collateral stages of a criminal case.” *Commonwealth v. Robinson*, 204 A.3d 326, 347 (Pa. 2018) (OISR).¹²

370. In this respect, “[t]he prosecutor's duty to seek justice trumps his or her role as an advocate to win cases for the Commonwealth.” *Commonwealth v. Chmiel*, 173 A.3d at 631 (Donohue, J. , concurring).

371. Previous appellate counsel raised a *Brady* violation on appeal related to the McChesney diary and emails, but the Superior Court ruled the claim untimely, finding that prior counsel “dithered” in raising the issue.

¹² Relatedly, the Supreme Court stated in *Cone v. Bell*, 556 U.S. 449, 469 (2009),

Although the State is obliged to “prosecute with earnestness and vigor,” it “is as much [its] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.” *Berger*, 295 U.S., at 88, 55 S. Ct. 629, 79 L. Ed. 1314. Accordingly, we have held that when the State withholds from a criminal defendant evidence that is material to his guilt or punishment, it violates his right to due process of law in violation of the Fourteenth Amendment.

372. Sandusky suffered prejudice as the failure to present the evidence in a timely manner resulted in the appellate court declining to consider the evidence.

373. In addition, Sandusky suffered prejudice by the Commonwealth's failure to turn over the evidence since he had alleged violations of grand jury secrecy during his prior PCRA proceedings, and those proceedings would have been different had the evidence been disclosed.

374. Sandusky also suffered prejudice at trial where he would have moved to preclude the juror in question.

ISSUE V.

Re-sentencing/remand counsel was ineffective in failing to timely present after-discovered evidence related to civil questionnaire forms of accusers that showed ever changing allegations, and contained cookie cutter allegations designed to indicate the person was either Victim 2 or Victim 8, and referenced repressed memory--which the Commonwealth has falsely represented were not at issue in this matter.

375. The prior paragraphs are incorporated by reference.

376. This claim is timely filed within one year of the finality of Sandusky's judgment of sentence on October 19, 2024, and is being brought forth at the first opportunity in which Sandusky was not represented by prior appellate/remand counsel.

377. Sandusky could not have raised this claim earlier as ineffectiveness claims cannot be raised on direct appeal and the information was not discovered until after the completion of Sandusky's prior PCRA.

378. The civil questionnaires attached hereto indicate that the accusers' allegations were based on so-called recovered memories and that the accusers' claims were altered to increase the value of potential civil claims.

379. The civil questionnaires were not available at the time of trial.

380. The civil questionnaires could not have been discovered by the exercise of due diligence prior to their discovery via civil discovery in civil litigation against Sandusky.

381. Prior appellate counsel was ineffective in failing to present this evidence in conjunction with the A.J. Dillen recordings of Andrew Shubin and Cynthia MacNab and the Andrew Shubin and S.S. interview where such evidence established that the accusers were undergoing and/or believed in a discredited form of therapy that resulted in claims of recovered memory.

382. Counsel could have no reasonable basis for not introducing this evidence where critical arguments that had been advanced by Sandusky following his trial centered around claims of memory manipulation and prior courts have asserted, erroneously, that there was no evidence that the accusers' therapy impacted their claims and testimony.

383. The civil questionnaires is further evidence of civil attorneys and therapists influencing the accounts and testimony of the accusers and presents questions of fact as to what roles Cynthia MacNab, Andrew Shubin, Michael Gillum

and other civil attorneys and therapists played in the evolution of the accusers' allegations before and during Sandusky's trial and what knowledge the prosecution possessed regarding the same.

384. Sandusky suffered actual prejudice where it is apparent that therapy did impact the accusers' claims and establish that the prosecution did not tell the whole truth when representing that *none* of the accusers' allegations were impacted by therapy. Had the prior courts and jury been aware of this information there is a reasonable probability of a different outcome during Sandusky's prior PCRA proceedings, appeals, and trial.

ISSUE VI.

*Prior PCRA counsel were ineffective in failing to present a **Brady** claim related to the Commonwealth's failure to disclose the role that therapist Michael Gillum played as a de facto member of the prosecution team.*

385. The prior paragraphs are incorporated by reference.

386. Sandusky could not have raised this PCRA counsel ineffectiveness claim earlier as ineffectiveness claims cannot be raised on direct appeal and counsel generally cannot raise their own ineffectiveness.

387. This claim is timely filed within one year of the finality of Sandusky's judgment of sentence on October 19, 2024, and is being brought forth at the first opportunity in which Sandusky was not represented by prior appellate/remand/PCRA counsel.

*The Due Process Right to Effective PCRA Counsel and the
Unconstitutionality As Applied of the PCRA Time-Bar*

388. To the extent that this claim would be construed as untimely and running from Sandusky's original judgment of sentence, the interpretation of the PCRA time-bar as jurisdictional is unconstitutional as-applied since PCRA counsel's ineffectiveness could not have been presented previously. *See Commonwealth v. Brown*, 943 A.2d 264, 268 n. 4 (Pa. 2008).

389. Because applying the PCRA time-bar as jurisdictional in this matter would prevent Sandusky from asserting valid claims of PCRA counsel ineffectiveness, the time-bar violates Sandusky's *due process right* to effective PCRA counsel.

390. In this respect, the Pennsylvania Supreme Court has held that the right to counsel during initial PCRA review means "'an enforceable right' to the effective assistance of counsel." *Commonwealth v. Holmes*, 79 A.3d 562, 583 (Pa. 2013).

391. Since, absent good cause or extraordinary circumstances, the Supreme Court's decision in *Commonwealth v. Grant*, 813 A.2d 726 (Pa. 2002) requires petitioner's to make allegations of ineffectiveness during the PCRA process, defendants have a constitutional *due process* right to counsel during first time PCRA proceedings and a corresponding constitutional right to effective assistance of counsel. *Cf. Coleman v. Thompson*, 501 U.S. 722, 754-757 (1991); *see also id.* at 773-774 (Blackmun, J., dissenting with whom Justice Marshall and Justice Stevens

joined); *Commonwealth v. Figueroa*, 29 A.3d 1177 (Pa. Super. 2011); *Martinez v. Ryan*, 132 S.Ct. 1309 (2012).

392. In *Coleman*, the United States Supreme Court hinted that there may exist a constitutional right to post-conviction counsel where “state collateral review is the first place a prisoner can present a challenge to his conviction.” This is because the post-conviction proceedings becomes the petitioner’s single appeal as to ineffectiveness claims. *See Martinez*, 132 S.Ct. at 1315 (internal citations omitted).

393. “Accordingly, by eliminating ineffectiveness claims from the ambit of direct review, *Grant* renders PCRA trial review as a first appeal as-of-right for trial counsel ineffectiveness issues.” J. Andrew Salemme, *Guilty Until Proven Innocent: A Practitioner’s & Judge’s Guide to the Pennsylvania Post-Conviction Relief Act* (2017 ed., at 228.

394. Sandusky had a constitutional due process right to effective PCRA counsel.

395. This is consistent with the Supreme Court’s finding in *Commonwealth v. Turner*, 80 A.3d 754 (Pa. 2013), where the Court opined, “although ‘states have no constitutional obligation to provide a means for collaterally attacking convictions,’ if they do, ‘then such procedures must comport with the fundamental fairness mandated by the Due Process Clause.’”). *Turner, supra* at 764. (internal citations omitted).

396. Thus, once a state decides that counsel is required for a first-time PCRA proceeding, due process compels that counsel act effectively.

397. As the Superior Court recognized, while there does not exist a federal or state constitutional right to compulsory process during PCRA proceedings, there must exist a due process right to such process. *Commonwealth v. McClelland*, 165 A.3d 19, 26 (Pa. Super. 2017), *reversed on other ground*, 2020 WL 4092109 (Pa. 2020). The same applies where there is a rule-based right to counsel.

398. The *Turner* Court recognized that:

To deny due process, the complained-of aspect of the state post-conviction procedures must be “fundamentally inadequate to vindicate” the defendant's liberty interest, and must offend “some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental” or transgress “any recognized principle of fundamental fairness in operation.”

Id. (citation omitted).

399. Finding Sandusky’s issue untimely because his prior PCRA counsel failed to present the claim results in no ability to vindicate his right to effective PCRA counsel.

400. To find Sandusky’s claim untimely because original PCRA counsel failed to present it violates Sandusky’s state substantive and procedural due process rights under Article I, § 9 and his federal substantive procedural and due process rights.

The Gillum Brady Violation

401. The prosecution violated *Brady* by failing to disclose material impeachment evidence related to the role that Michael Gillum played as part of the prosecution team and in shaping the changing narratives of Aaron Fisher and perhaps other accusers like B.S.H.

402. It was unknown and not disclosed to trial counsel that Gillum had participated in the grand jury proceedings and aided Fisher in his grand jury testimony.

403. Gillum also provided training to state police concerning interviewing alleged sex abuse victims, was driven to the courthouse by state police during the trial, (*Silent No More*, at 189), and sat with the Attorney General Linda Kelly during the trial. (*Id.* at 191).

404. Gillum, unbeknownst to trial counsel and Sandusky, also participated in a three hour meeting with prosecutor Frank Fina. (*Silent No More*, at 157).

405. Also, unbeknownst to Sandusky and trial counsel, Gillum was co-authoring with Fisher and his mother a book about the case: *Silent No More*, which was published just two weeks after Sandusky was sentenced.

406. The book revealed Gillum's treatment of Fisher and how that treatment resulted in Fisher's accounts being changed---this information was not disclosed to trial counsel, nor did trial counsel have the opportunity to obtain any treatment notes

or similar records of Gillum or question Gillum or Fisher about Gillum's treatment protocols at trial and how Fisher's allegations changed as result therefrom. Gillum's course of conduct in shaping the testimony and accusations of Fisher and B.S.H. and the overall investigation cannot be understated, but the jury was entirely unaware of his role in shaping the ever-changing accusations.

407. Prior PCRA counsel was ineffective in failing to present this claim where it presented various issues pertaining to Gillum and called Gillum as a witness during the prior PCRA proceedings concerning Gillum's treatment of Fisher and had become aware of Gillum's critical involvement based on the publication of Silent No More.

408. Under *Commonwealth v. Bradley*, 261 A.3d 381 (Pa. 2021), this is the first opportunity to raise this claim, where prior PCRA counsel represented Sandusky through his PCRA appeals and during re-sentencing and remand proceedings.

409. Sandusky is entitled to an evidentiary hearing.

ISSUE VII.

Trial counsel was ineffective in failing to challenge the two-year statute of limitations period for each Unlawful Contact of Minor count where the last claimed abuse was December of 2008 and Sandusky was not charged until December of 2011, and prior PCRA counsel were ineffective in failing to raise trial counsel's ineffectiveness.

410. The prior paragraphs are incorporated by reference.

411. This claim is timely filed within one year of the completion of Sandusky's judgment of sentence and is being brought forth at the first opportunity in which Sandusky was not represented by prior appellate/remand/PCRA counsel.¹³

412. The Commonwealth charged Sandusky with two counts of Unlawful Contact with a Minor at CP-14-2421-2011 (Counts 4 and 10).

413. The Commonwealth charged Sandusky with eight counts of Unlawful Contact with a Minor at CP-14-2422-2011 (Counts 4, 9, 13, 21, 25, 29, 33, and 38).

414. Trial counsel and original PCRA counsel were ineffective in not contesting the Unlawful Contact with a Minor charges based on the expiration of the two-year statute of limitation period.

415. Statute of limitation claims ordinarily must be raised pre-trial.

416. Pursuant to 42 Pa.C.S. § 5552, the statute of limitations period for Unlawful Contact with a Minor was two years.

417. The Commonwealth charged Sandusky in November and December of 2011.

418. The latest alleged criminal conduct purportedly occurred in December of 2008, more than two years before Sandusky was charged.

¹³ Paragraphs 388-400 specifically apply to this claim as well.

419. The statute of limitation period for Unlawful Contact with a Minor clearly expired prior to the charges in this matter. *See e.g., Commonwealth v. Moore*, 2014 Pa. Super. Unpub. LEXIS 455, *4 n.1; 42 Pa. C.S. § 5552(a).

420. Had trial counsel timely raised the issue, Sandusky could not have been convicted of those charges based on the statute of limitation period having expired.

421. Sandusky's convictions and sentence should be vacated for all of the Unlawful Contact with a Minor charges.

422. This issue is one of arguable merit.

423. Trial counsel and prior PCRA counsel could not have any reasonable basis for failing to raise the issue.

424. Sandusky suffered actual prejudice.

425. Had the claim been timely preserved and raised, the unlawful contact with minor charges would have been dismissed as untimely and he could not have been sentenced on each of those ten counts.

426. Sandusky could not have raised his original PCRA counsel ineffectiveness claim earlier because he was represented by that counsel during his first PCRA appeal and resentencing proceedings.

427. Further, one cannot raise ineffectiveness claims on direct appeal; therefore, he could not have presented the layered claim earlier.

428. To the extent that this claim would be construed as “untimely”, the construction of the PCRA time-bar as jurisdictional to this claim is unconstitutional as-applied where the statute of limitations period on the charges clearly expired.

ISSUE VIII.

Trial counsel and prior PCRA counsel were ineffective in failing to raise a statute of limitations defense to the Indecent Assault, Corruption of Minors and Endangering the Welfare of Children Charges at Counts 12, 14, 15, 20, 22, 23, 30, 31, 32, 34, 35.

429. The prior paragraphs are incorporated by reference.

430. This claim is timely filed within one year of the completion of Sandusky’s judgment of sentence and is being brought forth at the first opportunity in which Sandusky was not represented by prior appellate/remand/PCRA counsel.¹⁴

431. The Commonwealth charged Sandusky with seven counts of Indecent Assault (Counts 3, 8, 12, 20, 24, 28, 37), and eight counts each of Corruption of Minors (Counts 5, 10, 14, 22, 26, 30, 34, 39) and Endangering the Welfare of Children (Count 6, 11, 15, 23, 27, 31, 35, 40) at CP-14-CR-2422-2011.

432. Effective January 29, 2007, the statute of limitation period for Indecent Assault, Corruption of Minors and Endangering the Welfare of Children was amended to provide:

If the period prescribed in subsection (a), (b) or (b.1) has expired, a prosecution may nevertheless be commenced for:

¹⁴ Paragraphs 388-400 specifically apply to this claim as well.

(3) Any sexual offense committed against a minor who is less than 18 years of age any time up to the later of the period of limitation provided by law after the minor has reached 18 years of age or the date the minor reaches 50 years of age. As used in this paragraph, the term "sexual offense" means a crime under the following provisions of Title 18 (relating to crimes and offenses):

Section 3126 (relating to indecent assault)

.....

Section 4304 (relating to endangering welfare of children).

Section 6301 (relating to corruption of minors).

433. *Prior to January 29, 2007*, the statute of limitation period for Indecent Assault, Corruption of Minors, and Endangering Welfare of Children was "any time up to the period of limitation provided by law after the minor has reached 18 years of age." *See* 2005 Pa. SB 1054 (approved by the Governor on November 29, 2006, effective within sixty days); *see also* History of 42 Pa.C.S. § 5552.

434. For Indecent Assault, Corruption of Minors, and Endangering Welfare of Children, the ordinary statute of limitation period was two years.

435. Thus, if a person was over the age of 20 as of January 29, 2007, the statute of limitation period for Indecent Assault, Corruption of Minors, and Endangering Welfare of Children had expired.

436. Alleged Victim 3, J.S., was born on January 1, 1987 and was twenty years old as of January 1, 2007; prior to January 29, 2007.

437. The alleged conduct against J.S. occurred between June 1999 and December 2001.

438. The statute of limitation period had expired at CP-14-CR-2422-2011 for Counts 12, 14, and 15 (related to J.S./Victim 3) prior to the legislature amending the statute of limitation period that went into effect on January 29, 2007.

439. Alleged Victim 4, B.S.H., was born on September 9, 1983 and was twenty as of September 9, 2003. Therefore, he was twenty years old prior to January 29, 2007.

440. The alleged conduct against B.S.H. occurred between October 1996 and December 2000.

441. The statute of limitation period had expired at CP-14-CR-2422-2011 for Counts 20, 22, 23, (related to B.S.H./Victim 4) prior to the legislature amending the statute of limitation period that went into effect on January 29, 2007.

442. Alleged Victim 6, Z.K., was born in 1986 and turned 20 prior to January 29, 2007.

443. The alleged conduct against Z.K. occurred on May 3, 1998.

444. The statute of limitation period had expired at CP-14-CR-2422-2011 for Counts 30 and 31 (related to Z.K./Victim 6) prior to the legislature amending the statute of limitation period that went into effect on January 29, 2007.

445. Alleged Victim 7, D.S., was born on November 10, 1984 and was twenty years of age as of November 10, 2004; prior to January 29, 2007.

446. The alleged conduct against D.S. occurred between September 1995 and December 1996.

447. The statute of limitation period had expired at CP-14-CR-2422-2011 for Counts 32, 34, 35 (related to D.S./Victim 7) prior to the legislature amending the statute of limitation period that went into effect on January 29, 2007.

448. Had trial counsel timely raised the issue, Sandusky could not have been convicted of those charges based on the statute of limitation period having expired.

449. Sandusky's sentence should be vacated at Counts 12, 14, 15, 20, 22, 23, 30, 31, 32, 34, 35.

450. This issue is one of arguable merit.

451. Trial counsel and prior PCRA counsel could not have any reasonable basis for failing to raise the issue.

452. Sandusky suffered actual prejudice.

453. Had the claim been timely preserved and raised, Counts 12, 14, 15, 20, 22, 23, 30, 31, 32, 34, 35 would have been dismissed as untimely and he could not have been tried or sentenced on those counts.

454. Sandusky could not have raised his PCRA counsel ineffectiveness claim earlier because he was represented by that counsel during his PCRA appeal and resentencing proceedings.

455. Further, one cannot raise ineffectiveness claims on direct appeal; therefore, he could not have presented the layered claim earlier.

456. To the extent that this claim would be construed as "untimely", the construction of the PCRA time-bar as jurisdictional to this claim is unconstitutional as-applied where the statute of limitations period on the charges clearly expired.

457. Sandusky intends to call R.R., A.Q., Joseph McGettigan, Frank Fina, prior appellate/post-sentence counsel-Al Lindsay, Jr., and Michael Gillum. Sandusky also may call Frank Parlato, Attorney Andrew Shubin, Aaron Fisher, Dawn Daniels, Z.K., J.S., B.S.H., M.K., D.S., S.P., A.J. Dillen, and Cynthia MacNab. This list may be amended based on further information learned during the course of the proceedings. Witness certifications and/or affidavits are attached and/or will be provided, and Sandusky reserves the right to amend or provide additional certifications.

Respectfully submitted:

TUCKER ARENSBERG, P.C.

By/s/Jerry J. Russo

Jerry J. Russo, Esquire

Attorney I.D. 55717

Barbara A. Zemlock, Esquire
Attorney I.D. 58891

Heidi Freese, Esquire
Attorney I.D. 87668

J. Andrew Salemme, Esquire
Attorney I.D. 208257

**WITNESS CERTIFICATIONS OF TESTIMONY PURSUANT TO
RULE 902(A)(15) OF THE PENNSYLVANIA RULES OF CRIMINAL
PROCEDURE AND 42 Pa.C.S.A §9545(d)(1)**

Pursuant to Pennsylvania Rule of Criminal Procedure 902(A)(15), it is certified that, if an evidentiary hearing is held in this matter, the following witnesses may be called to testify:

R.R.

It is anticipated that R.R. will testify consistent with his Affidavit attached to the Sandusky PCRA Petition and the information related thereto. R.R.'s address and contact information can be disclosed upon request, but is not being included since this document is a public filing.

A.Q.

It is anticipated that A.Q. will testify consistent with the information provided in her affidavit attached to the Sandusky PCRA Petition and the surrounding circumstances related thereto, including her interactions with then prosecutor Joseph McGettigan both during the trial and after as well as any other interactions with her son, S.P., and the prosecutorial team and Attorneys McGettigan and Fina. Ms. Quidetto's address and contact information can be disclosed upon request, but is not being included herein since this document is a public filing.

Joseph McGettigan, III

Attorney Joseph McGettigan, III has a professional address of 30 Cassatt Avenue, Berwyn, Pennsylvania 19312 and is employed at the law firm of Andrews Mehalick Connolly Hulse & Ryan, P.C. If called to testify, Attorney McGettigan will be questioned regarding the facts and averments contained in the Sandusky PCRA petition, including but not limited to the affidavits of R.R. and A.Q. Attorney McGettigan is expected to testify regarding his role in obtaining civil counsel and/or a civil settlement on behalf of S.P., alleged Victim 9, and his role in procuring or establishing a trust for S.P. Attorney McGettigan will also

be called to testify concerning the allegations of *Brady* violations and his role in shaping the testimony of R.R., S.P., A.Q. and any other alleged victim that testified during the Sandusky trial.

Al Lindsay, Jr.

Attorney Lindsay has a professional address of 110 E. Diamond Street, Suite 300, Butler, Pennsylvania 16001. If called to testify, Attorney Lindsay will be questioned regarding the facts and averments contained in the Sandusky PCRA petition, including but not limited to his litigation efforts related to after-discovered evidence and motions filed with the Superior Court and the specially presiding trial judge concerning such evidence and communications with Petitioner concerning Petitioner's requests that Attorney Lindsay raise and litigate issues pertaining to the after-discovered evidence and related claims as outlined in Sandusky's PCRA petition. Attorney Lindsay will also be examined regarding the statute of limitation and sentencing issues presented in Sandusky's PCRA petition and his PCRA and appeal strategy in this case and the reasons for the acts or omissions articulated in the Petition.

Frank Fina

Mr. Fina's address is listed as 4800 Salem Road, Middleburg, Pennsylvania 17842. If called to testify, Attorney Fina will be questioned regarding the facts and averments contained in the Sandusky PCRA petition, including but not limited to the *Brady* claims raised therein, Attorney Fina's communications and relationship with the Freeh Group, and Attorney Fina's role, if any, in procuring or introducing civil counsel to any of the alleged Sandusky victims.

Michael Gillum

Mr. Gillum has a professional address of 705 Washington Boulevard, Suite 100, Williamsport, Pennsylvania 17701. If called to testify, Mr. Gillum will be questioned regarding the facts and averments contained in the Sandusky PCRA petition related to Mr. Gillum, including but not limited to information provided in the book he co-authored with Aaron Fisher, the role he played with the prosecution team, advising state police, and his role in providing therapy to Aaron Fisher and any other

accuser and the protocols he followed when engaging in providing professional services to alleged victims of sexual abuse.

Frank Parlato

Mr. Parlato is an investigative journalist. If called to testify, Mr. Parlato will testify regarding the facts and averments contained in the Sandusky PCRA petition within his personal knowledge, and will testify consistent with his Affidavit attached to the Sandusky PCRA Petition and the information related thereto and his investigation and interactions with A.Q., R.R., and Dawn (Daniels) Hennessy.

Petitioner, and the undersigned counsel, reserve the right to amend and supplement these Witness Certifications.

Respectfully submitted:

TUCKER ARENSBERG, P.C.

By: /s/Jerry J. Russo

Jerry J. Russo, Esquire
Attorney I.D. 55717

Barbara A. Zemlock, Esquire
Attorney I.D. 58891

Heidi Freese, Esquire
Attorney I.D. 87668

J. Andrew Salemme, Esquire
Attorney I.D. 208257
Attorneys for Defendant

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the United Judicial System of Pennsylvania Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by:

Signature: /s/Jerry J. Russo

Name: Jerry J. Russo

Attorney No.: 55717

VERIFICATION

I, J. Andrew Salemme, Esquire, depose and state that I am counsel for Petitioner herein, and as such am authorized to make this Verification on his behalf, and that the averments contained in the foregoing Petition are true and correct to the best of my knowledge, information and belief based on information received from Petitioner, that Petitioner is currently incarcerated and due to time constraints regarding the filing of the within Petition a signed Verification from Petitioner will be substituted upon its receipt. I understand that the statements made therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Dated: September 26, 2025



J. Andrew Salemme, Esquire

CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that on the 26th day of September, 2025 he caused an exact copy of the foregoing to be served in the manner specified upon the following:

Via First Class Mail, PACfile, and/or e-mail:

Office of Attorney General
Appeals & Legal Services Section
16th Floor, Strawberry Square
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/s/J. Andrew Salemm