

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
: OF DAUPHIN COUNTY
. v. :
: No. CP-22-CR-5165-2011
TIMOTHY M. CURLEY, :
Defendant : CHARGES: PERJURY; PENALTIES
: FOR FAILURE TO REPORT

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
: OF DAUPHIN COUNTY
. v. :
: No. CP-22-CR-5164-2011
GARY CHARLES SCHULTZ, :
Defendant : CHARGES: PERJURY; PENALTIES
: FOR FAILURE TO REPORT

**COMMONWEALTH'S RESPONSE TO DEFENDANTS'
MOTION FOR A BILL OF PARTICULARS**

AND NOW, comes the Commonwealth of Pennsylvania by its attorneys, Attorney General Linda L. Kelly, Chief of Staff Bruce R. Beemer, Senior Deputy Attorney General Jonelle H. Eshbach, and Chief Deputy Attorney General James P. Barker, who file this Commonwealth's Response to Defendants' Motion for a Bill of Particulars, and in support thereof represent as follows:

Appended hereto as Exhibit A and Exhibit B are lists of those statements that the Commonwealth contends constitute the perjurious statements made by the Defendants

during their Grand Jury testimony. The Commonwealth identifies these statements with the understanding that any or all of these statements will support the charge of Perjury, and that it is not required to prove the falsity of every identified statement. The Commonwealth denies that any further disclosure is necessary for present purposes as any further evidence will be disclosed in discovery.

WHEREFORE, the Commonwealth respectfully requests that this Honorable Court enter an Order denying the Defendants' Motions for a Bill of Particulars.

Respectfully submitted,
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Attorney General

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EXHIBIT A

TIM CURLEY
GRAND JURY TRANSCRIPT
01/12/2011

<i>PAGE(S)</i>	<i>LINE(S)</i>	<i>Q & A</i>
6 7	23-25 1-3	Q Now, specifically with regard to the information that you got from Mike McQueary in your meeting – and I’m going to ask you to be as specific as you can recall – what exactly did he tell you he had seen Jerry Sandusky doing in that shower with that young man?
7	6-10	A My recollection was that Mike could hear there were people in – they were in the shower area, that they were horsing around, that they were playful, and that it just did not feel appropriate.
7	11-14	Q Are you saying that Mike McQueary did not tell you specifically that there was anal intercourse occurring between Jerry Sandusky and this child?
7	15-16	A Absolutely not, that he did not tell me that.
8	1-4	Q Was there any indication to you of what type of conduct was occurring? How would you characterize what McQueary told you about what the conduct was?
8	5-8	A Again, I can’t remember specifically how Mike described it. My recollection was that they were kind of wrestling, there was body contact, and they were horsing around.
8	12-13	Q Did he indicate to you that there was sexual conduct?
8	14	A No.
8	15	Q Of any kind?
8	16	A No.
12	14-16	Q Were you aware that the report that Mike McQueary made could be considered a crime by Jerry Sandusky?
12	17-18	A I didn’t think that it was a crime at the time.

<i>PAGE(s)</i>	<i>LINE(s)</i>	<i>Q & A</i>
13	6-7	Q So the decision not to report it to the police was your decision?
13	8-9	A Yes. I didn't see any reason because I didn't, at that time, think it was a crime.
13	20-24	Q At the time of the incident in 2002, were you aware of any other incidents involving alleged sexually inappropriate misconduct by Mr. Sandusky anywhere, on university property or otherwise?
13	25	A No, ma'am.
14	7-8	Q Specifically a 1998 report, did you know anything about that in 2002?
14	9	A No, ma'am.
15	2-3	Q But the 1998 incident was never brought to your attention?
15	4	A No, ma'am, not that I recall.
15	5-9	Q Have you ever heard – anything other than what you heard from Mike McQueary, have you ever heard anything at all regarding inappropriate conduct between Jerry Sandusky and young men either on or off campus?
15	10	A No.
21	4-10	Q Obviously, you're a person of more than reasonable intelligence who's running a Division 1 football program, not only the football program, but the entire athletic program. Did it not occur to you that there was something sexual going on in this incident based on what was referred to you by Mike McQueary?
21	11-14	A I was not aware of anything sexual. So I didn't feel that it warranted that and I felt my actions were appropriate. But I was not aware that there was sexual activity.
23	10-12	Q Was there a specific conversation about whether or not to go to law enforcement authorities about this?
23	13-16	A At the time I don't recall that because, again, I didn't feel – at least I didn't feel personally that any criminal activity had occurred.

<i>PAGE(s)</i>	<i>LINE(s)</i>	<i>Q & A</i>
23	19-24	Q But you made this determination without talking to the young person who was there or any other investigative measures. There were no other investigative steps made to determine whether or not there was anything sexual about this conduct?
23 24	25 1-2	A Again, I don't remember any report to me that it was sexual in nature. It was inappropriate behavior.
25	11-17	Q Well, sir, listening to the words you just used, I think a reasonable person would immediately jump to, there could be a sexual nature to this. You have a grown male with a child naked in the shower horsing around. What is it that specifically alarmed Mr. McQueary? What did you take away from that meeting?
25	18-23	A I took away that he didn't feel comfortable with the activity that was happening and it wasn't appropriate that we had an adult and a young child or a person in the shower area and that it was a situation that – and that's what alarmed him.

EXHIBIT B

GARY SCHULTZ
GRAND JURY TRANSCRIPT
01/12/2011

<i>PAGE(s)</i>	<i>LINE(s)</i>	<i>Q & A</i>
9	19-20	Q At that time, did McQueary relate to you what he had observed in the locker room?
9	21-23	A No. My recollection was McQueary and Joe both only described what was observed in a very general way. There was no details.
9 10	24-25 1	Q Did you, nevertheless, form an impression about what type of conduct this might have been that occurred in the locker room?
10	2-9	A Well, I had the impression that it was inappropriate. Telling you what kind of thing I had in my mind without being clear, without him telling me, but, you know, I had the feeling that there was perhaps some kind of wrestling around activity and maybe Jerry might have grabbed the young boy's genitals or something of that sort is kind of the impression that I had.
11	4-5	Q Whose recommendations – what was done, first of all?
11	13-15	A I also have a recollection that we asked the child protection agency to look into the matter.
12	2-5	Q Do you remember to whom you would have made such a request, an individual, the name of the agency, where it was located?
12	11-13	A So my recollection would be in 2002 that they were asked to look into this allegation.
13	13-14	Q What did you understand the 1998 incident, in a general way, to allege?
13	15-17	A Again, I thought that it had some basis of inappropriate behavior, but without any specifics at all.

<i>PAGE(S)</i>	<i>LINE(S)</i>	<i>Q & A</i>
14	1-4	Q It's your testimony that you believed the 2002 incident was reported to the same agency, that child protective services agency, for an investigation as the '98 one had been?
14	5	A That's my recollection, yes.
15	1-6	Q Knowing that there was an incident in 1998 involving a boy or boys and the incident in 2002, did you not feel it was appropriate to further investigate the incident to determine if something truly sexually inappropriate had occurred on campus?
15	12-17	A The incident in 2002, again, I recall that it was also turned over to that same agency for investigation and it's appropriate for them to do that, not for me to determine the name of the boy. I wasn't doing an investigation.
19	1-8	A I probably would have been able to, but it was my practice that I didn't ask the police for police reports.
19	4-7	Q In 2002 when you became aware of this allegation in the shower, did you then seek out the 1998 report to find out what it was that Sandusky specifically was alleged to have done?
19	8	A No, I did not.
20	5-6	Q You knew the university police were involved in the 1998 investigation, right?
20	7	A Yes.
20	8-13	Q But you didn't attempt to find out whether they had anything that would substantiate or cause you to come to some conclusions regarding the 2002 incident and whether or not it might have actually occurred? That didn't occur to you to check into the 1998 incident more firmly?
20	14	A No.

<i>PAGE(s)</i>	<i>LINE(s)</i>	<i>Q & A</i>	
22	3-5	Q	So you're indicating that as far as you know, no one from the university investigated the 2002 incident at all?
22	6-8	A	Yeah. As far as I know, the university asked the other agency to follow up as it did in '98.
22	15-16	Q	Inappropriate sexual conduct by Jerry Sandusky?
22 23	25 1-6	A	I had the impression that maybe something like that was going on in the locker room and perhaps in the course of that, that somebody might have grabbed the genitals, that Jerry might have grabbed the genitals of the boy. I had no impression that it was anything more serious than that.
24	6-12	Q	Sir, I just want to be real clear on this. It was your impression after you talked to McQueary that this was about some physical conduct, some horsing around, some wrestling that resulted in contact with a boy's genitals in the context of wrestling. That was your impression of what McQueary was reporting to you?
24	13-17	A	I don't recall what McQueary specifically reported, but I can tell you that I, after going through whatever we went through in 2003, had that impression that that was probably the kind of thing that had taken place.
24	18-19	Q	Nothing else? No further sexual conduct?
24	20	A	No, I had no basis –
24	21	Q	No intercourse?
24	22-25	A	I had no basis of anything else, and I only formed the impression that I had based on kind of what I observed of Jerry and the kind of horsing around that he does.
25	9	Q	What generally did he report?
25	10-12	A	I believe that he said that he saw something that he felt was inappropriate between Jerry and a boy.

<i>PAGE(s)</i>	<i>LINE(s)</i>	<i>Q & A</i>
25 26	24-25 1	Q Nobody, not you, nor Curley, nor anybody else went back to McQueary and asked for specifics or at the time asked for specifics?
26	2-4	A No. Again, I recalled that we asked this agency to do the investigation and I would let them follow up.
26	12-16	Q How is it that this agency, this whatever it was, would even know who to talk to, to talk to McQueary or to talk to you or to talk to whoever? Who was supposed to relay this information?
26	18-20	A I'm telling you, to the best of my recollection, I believe that the agency was asked to follow up on the investigation.
27 28	25 1-3	Q Are you aware of any memorandums or any written documents other than your own notes that existed either at the time of this incident or after this incident about the 2002 events?
28	4	A No.
28	5-9	Q Would that be standard? Would that be the way the university operates when an allegation is made against a current employee or a very famous prior employee, that nothing be put in writing?
28	10-14	A The allegations came across as not that serious. It didn't appear at that time, based on what was reported, to be that serious, that a crime had occurred. We had no indication a crime had occurred.
30	16-19	Q You're saying that this incident wasn't referred to the university police for investigation because you didn't think it was criminal?
30	20	A There was no indication that it was.
31	23-24	Q But not criminal in your mind, not potentially criminal?
31 32	25 1	A I didn't get the impression that there was something like that going on.

VERIFICATION

The facts recited in the foregoing Commonwealth's Response to Defendants' Motions for a Bill of Particulars are true and correct to the best of my knowledge and belief. This statement is made with knowledge that a false statement is punishable by law under 18 Pa. C.S. § 4904(b).

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving one copy of the foregoing Commonwealth's Response to Defendants' Motions for a Bill of Particulars upon the persons and in the manner indicated below:

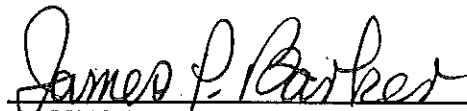
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