

AND NOW THIS DATE

14 FEB 2011 12:00

IN THE COURT OF COMMON PLEAS OF DAUPHIN COUNTY, PENNSYLVANIA, CRIMINAL DIVISION

NOTICE IS HEREBY ACCEPTED AND COPY RECEIVED  
Edward M. Masier, Jr.  
DISTRICT ATTORNEY

COMMONWEALTH OF PENNSYLVANIA, :  
v. :  
GARY C. SCHULTZ, :  
Defendant. :

No. CP-22-CR-5164-2011

RECEIVED  
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2011 FEB 14 PM 3:49  
DAUPHIN COUNTY  
PENNSYLVANIA

**DEFENDANT GARY C. SCHULTZ' PETITION FOR WRIT OF HABEAS CORPUS AS TO COUNT ONE OF THE INFORMATION**

AND NOW, comes the defendant, Gary C. Schultz, by and through his attorney, Thomas J. Farrell, Esquire, and the law firm of Farrell & Reisinger, LLC, and respectfully requests the following:

1. Mr. Gary C. Schultz is charged in a two-count criminal information with, at Count 1, Perjury in violation of 18 Pa.C.S.A. § 4902(a), a felony of the third degree and at Count 2, Persons Required to Report Suspected Child Abuse in violation of 23 Pa.C.S.A. § 6319, a summary offense.

2. As more fully explained in the Memorandum of Law filed this same day, the preliminary hearing in this matter failed to establish sufficient evidence to require Mr. Schultz to stand trial on the perjury charge for three reasons:

(a) There is no corroboration of Mike McQueary's testimony

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that Mr. Schultz' statements were false;

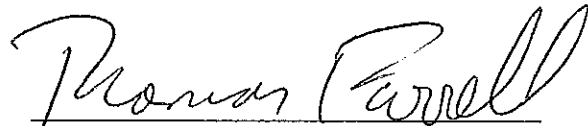
(b) The questions and answers concerning "serious[ness]" and "criminal[ity]" are so patently ambiguous that they cannot support a perjury prosecution; and

(c) The testimony at issue states opinions that are not capable of being proven knowingly false.

WHEREFORE, Mr. Schultz' Habeas Petition should be granted and Count One dismissed.

Respectfully submitted,

By:



Thomas J. Farrell, Esquire  
Attorney for Defendant, Gary C.  
Schultz

Pa. I.D. No. 48976  
Farrell & Reisinger, LLC  
436 7<sup>th</sup> Avenue, Suite 200  
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(412) 894-1380

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CRIMINAL DIVISION

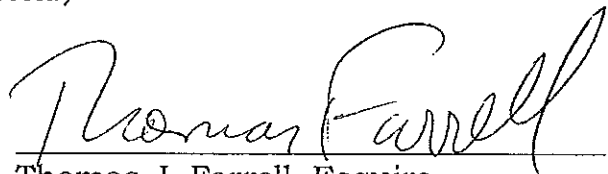
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 :  
 v. :  
 : No. CP-22-CR-5164-2011  
 GARY C. SCHULTZ, :  
 :  
 Defendant. :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Petition for a Writ of Habeas Corpus was delivered by U.S. Mail and email, this 14<sup>th</sup> day of February, 2012, to the following:

Bruce Beemer  
Deputy Attorney General  
Office of the Attorney General  
Strawberry Square  
Harrisburg, PA 17120  
([bbeemer@attorneygeneral.gov](mailto:bbeemer@attorneygeneral.gov))

Caroline M. Roberto, Esquire  
429 4<sup>th</sup> Avenue, Suite 500  
Pittsburgh, PA 15219  
([croberto@choiceonemail.com](mailto:croberto@choiceonemail.com))



Thomas J. Farrell, Esquire  
Attorney for Defendant, Gary C. Schultz