

Jerry J. Russo, Esquire
Attorney I.D. No. 55717
Barbara A. Zemlock, Esquire
Attorney I.D. No. 58891
Heidi Freese, Esquire
Attorney I.D. No. 87668
J. Andrew Salemme, Esquire
Attorney I.D. No. 208257
Tucker Arensberg, PC
300 Corporate Center Drive, Suite 200
Camp Hill, PA 17011
(717) 234-4121
Attorneys for Defendant
jrusso@tuckerlaw.com
bzemlock@tuckerlaw.com
hfreese@tuckerlaw.com
asalemme@tuckerlaw.com

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	:
	:

PETITIONER'S FIRST REQUEST TO AMEND PCRA PETITION

Petitioner, Gerald A. Sandusky ("Petitioner" or "Sandusky"), through counsel, files this First Request to Amend PCRA Petition, averring s follows:

1. Petitioner filed the underlying PCRA petition on September 26, 2025.
2. The Commonwealth filed a Brief in Opposition on December 18, 2025, which itself raised issues of fact.
3. Sandusky filed a Reply on February 5, 2026.

4. The Commonwealth filed a Response to Sandusky's Reply on February 12, 2026.

5. On March 2, 2026, this Court initially dismissed Sandusky's PCRA petition without an evidentiary hearing and without providing Petitioner with the required Notice of Intent to Dismiss and twenty days to respond.

6. The Court vacated its original Final Order and issued a Rule 907 Notice of Intent to Dismiss on March 16, 2026.

7. Sandusky filed a timely Response, and the Commonwealth filed a Reply.

8. This Court entered an Order granting Sandusky an evidentiary hearing as to one claim (R.R. recantation) and denied a hearing as to Sandusky's remaining claims.

9. Pa.R.Crim.P. 905 authorizes amendment to a PCRA petition and such amendments are to be liberally allowed.

10. Pursuant to Pa.R.Crim.P. 905, Petitioner files this Request to Amend PCRA Petition, and attaches his proposed Amended PCRA Petition as Exhibit A.

WHEREFORE, this Court should grant Sandusky's Request to Amend PCRA Petition.

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

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

EXHIBIT A

Jerry J. Russo, Esquire
Attorney I.D. No. 55717
Barbara A. Zemlock, Esquire
Attorney I.D. No. 58891
Heidi Freese, Esquire
Attorney I.D. No. 87668
J. Andrew Salemme, Esquire
Attorney I.D. No. 208257
Tucker Arensberg, PC
300 Corporate Center Drive, Suite 200
Camp Hill, PA 17011
(717) 234-4121
Attorneys for Defendant
jrusso@tuckerlaw.com
bzemlock@tuckerlaw.com
hfreese@tuckerlaw.com
asalemme@tuckerlaw.com

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	:
	:

AMENDED PCRA PETITION

Petitioner, Gerald A. Sandusky (“Petitioner” or “Sandusky”), through counsel, files this Amended PCRA Petition, averring as follows:

1. Petitioner filed the original underlying PCRA petition on September 26, 2025.
2. The Commonwealth filed a Brief in Opposition on December 18, 2025.
3. Sandusky filed a Reply on February 5, 2026.

4. The Commonwealth filed a Response to Sandusky's Reply on February 12, 2026.

5. On March 2, 2026, this Court dismissed Sandusky's PCRA petition without an evidentiary hearing without providing Petitioner with the required Rule 907 Notice of Intent to Dismiss and twenty days to respond.

6. Upon notification from the Commonwealth, the Court vacated its original Final Order and subsequently issued a Rule 907 Notice of Intent to Dismiss on March 16, 2026.

7. Sandusky filed a timely Response, and the Commonwealth also filed a Reply thereto.

8. The Court then entered an Order granting Sandusky an evidentiary hearing as to one claim (R.R. recantation) and denied a hearing as to the remaining claims included within Sandusky's original petition.

9. The claims that Sandusky was denied a hearing on were as follows:

- a. 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.
- b. 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.

- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. 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.

10. Sandusky incorporates by reference the prior claims, averments, witness certifications and exhibits included within his September 26, 2025 PCRA Petition and incorporates by reference his Reply to Commonwealth and Response to Rule 907 Notice of Intent to Dismiss and Exhibits thereto as if the averments and Exhibits therein were fully set forth herein. This Amended PCRA Petition supplements the facts and arguments in support of Issues a. through e. listed above and raised in the original September 26, 2025 PCRA Petition.

BRIEF PROCEDURAL HISTORY

11. A jury convicted Sandusky on June 22, 2012.

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

13. 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).

14. Sandusky timely filed his original PCRA petition on April 2, 2015.

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

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

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

18. 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.

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

20. The court denied that request.

21. During a May 11, 2017 hearing, PCRA counsel renewed their request for therapy notes after the prosecution opened the door by questioning Dr. Elizabeth Loftus and suggesting that she had not been provided sufficient information.

22. The court denied that request, noting, “I’m not going to change my prior ruling. But I’ll let her cross-examine on that. With the understanding that you couldn’t provide the information. I know that.” (N.T., 5/11/2017, at 93).

23. Despite asserting that PCRA counsel could not provide critical information to Dr. Loftus, in its subsequent opinion denying relief it nonetheless

opined that Loftus had engaged in, “an uncritical review of an absurdly incomplete record[.]” (PCRA Court Opinion, 10/18/2017, at 39).

24. 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. The Motion was denied.

25. The Court denied Sandusky’s PCRA claims on October 18, 2017.

26. In doing so, the PCRA court maintained that there was “no merit to the ‘false memories’ portion of [Sandusky’s] claim.” (PCRA Court Opinion, 10/18/2017, at 14).¹

27. The PCRA court concluded that there was “no reason, then, to conclude that the Commonwealth was not telling [trial counsel] the truth when it represented to him that it had no information regarding repressed memories.” (PCRA Court Opinion, 10/18/2017, at 39; Amended Motion for New Trial on the Ground of After-Discovered Evidence and Request for Evidentiary Hearing, 2/8/2023, Exhibit D, at

¹ The then presiding PCRA court incorrectly asserted that Sandusky presented testimony from Fisher and B.S.H. on the subject of repressed memory during the PCRA hearings and similarly misstated that Dr. Loftus did not support Sandusky’s claim. (PCRA Court Opinion, 10/18/2017, at 38). Neither Fisher nor B.S.H. testified during the PCRA hearings and Loftus testified that the records she reviewed supported the view that certain accusers had false memories.

47-48) (Attorney Shubin stating that prosecutors knew the witnesses' stories were changing due to therapy and were unhappy about it).²

28. According to the PCRA court, "[w]ithout independent evidence to support the contention that the victims had undergone repressed memory therapy...[trial counsel] would have had no reason to involve an expert[.]" (PCRA Court Opinion, 10/18/2017, at 41).

29. Sandusky timely appealed and 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).

30. Sandusky timely filed a Petition for Allowance of Appeal.

31. While Sandusky's appeal was pending before the Pennsylvania Supreme Court, Attorney Al Lindsay obtained a photocopy of the Kathleen

² Shubin specifically stated:

I was, like fighting with the prosecutors every day of the week because I didn't like the way they were treating, you know, these victims. Because victims, and you know this, they come forward and they talk, they say here's what -- you know, they say nothing happened, right? It's typical, "Nothing happened to me. Jerry was a father figure to me," right? And then, you know, they later say they go before a grand jury and they say, "Well, you know, something happened but, you know, it was only this, and I don't remember," you know? And *then when they get to the right people, like psychologists, therapists, you know, the right attorneys* and, you know, they understand that they need to get it all out on the table, otherwise -- you know, that's their only chance, and then they get the support because they're talking to someone who understands, or *they go to a psychologist or a therapist, and then they remember a whole lot more, right?*

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.

32. Sandusky's timely petition for allowance of appeal was denied on July 24, 2019.

33. Thereafter, on November 23, 2019, the trial court re-sentenced Sandusky.

34. 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.

35. Sandusky timely appealed.

36. On May 13, 2021, the Superior Court ruled that 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).

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

38. 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 A.J. Dillen podcast.

39. Sandusky also raised after-discovered evidence related to Attorney Andrew Shubin and an interview he conducted with an individual who has been identified as S.S.

40. Specifically, Sandusky obtained in civil discovery an interview conducted by Attorney Shubin with S.S., regarding alleged sexual abuse by Sandusky. Only days later Sandusky filed his motion.

41. Sandusky attached that 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.

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

43. The Dillen information showed that Shubin altered Dillen's fake story and that MacNab engaged in dubious therapeutic practices related to what renowned expert Dr. Christopher Barden has labeled "RRM-MPD-DISS" ideology.³

44. During her interactions with Dillen, MacNab clearly related her belief that individuals could repress memories of sexual abuse:

MS. MACNAB: We're talking about why you repressed or hid it or whatever (inaudible.)

³ RRM is an abbreviation for "recovered repressed memories", MPD is an abbreviation for "multiple personality disorder" and DISS is short for "dissociative amnesia."

MR. DILLEN: Right.

MS. MACNAB: I think that people do repress memories, and I think that people don't really -- I mean, I think there's a whole continuum of what that means. Sometimes it means they totally forget and it's not in their consciousness at all until something happens some time in their life, like they have a child and the child reaches the age that they were when they were abused, and then suddenly this stuff comes flooding back, and it's like, "What the hell?" So that's at this end of the continuum. At this end of the continuum, the other side is knowing but not wanting to think about it and sort of putting it out of your mind, the way you deal with anything that's unpleasant, but knowing it's there but just not focusing on it. And then there's everything in between. So this, over here on this end, where they didn't remember, that's repressed memory, and this isn't, but I prefer to use the term "dissociation." Dissociation just means disconnect, and there's different ways that we can disconnect, and we all do it to a greater or lesser degree, you know?

(Amended Motion for New Trial on the Ground of After-Discovered Evidence and Request for Evidentiary Hearing, 2/8/2023, Exhibit D, at 122-123).

45. MacNab continued:

But yes, people can disconnect for years, and they can disconnect from -- what's the acronym? I'm not going to be able to remember. They can disconnect from the knowledge of what happened, they can disconnect from the feelings of what happened, they can disconnect from the body sensations of what happened and -- there's one more, I can't remember it. (Inaudible) So -- or all of those. And, you know, you talk about -- a dissociation happens when you're in a situation that is beyond what's normal, what people normally encounter, and combat is a good example, and I think that's where we first started learning about PTSD, was with combat veterans.

(*Id.* at 123).

46. According to MacNab,

A person can be abused, forget about it, and then something happens that -- some little thing, like the way the light comes in through a window or something can trigger the memory years and years later, and suddenly they have a memory of being abused, and it's very confusing and can kind of startles you (inaudible) like, what the hell is happening?

(*Id.* at 125).

47. MacNab plainly espoused that Sandusky accusers dissociated and forgot memories of abuse.

48. She stated, “So we've talked about dissociation, and I guess I'll go again to that to try to explain this to you. The mind has a lot of stuff built into it that helps protect it, and one of the things is dissociation[.]” (*Id.* at 159).

49. She maintained, “So the mind does what it does. It sort of forgets pieces, forgets pieces or chunks them up so that you don't have to try to take in the whole overwhelming thing. Does that make any sense?” (*Id.* at 160).

50. Critically, MacNab outlined, “ I've talked to quite a few guys who were abused by Jerry Sandusky, and this is the case pretty much for all of them, they forget. Not really, because it's kind of back there, kind of back there[.]” (*Id.* at 183) (emphasis added).

51. She added, “Some of them remembered on their own, like you did eventually, in more adulthood. I talked to a guy yesterday who's in his 20s and he didn't remember until the last six months, I would say, and he was, like, eight or nine when it happened.” (*Id.*) (emphasis added).

52. MacNab continued, “Some didn't remember, some did, but they put it out in their minds, ‘I'm not going to think about that,’ didn't tell anybody. Nobody told anybody.” (*Id.* at 186).⁴

53. Based on this evidence, Sandusky filed an updated motion that attached an expert report by Dr. Barden.

54. Dr. Barden opined that the interviewing techniques of Shubin and MacNab were suggestive, improper, and could induce false memories.

55. He explained that the new evidence was independent evidence that psychotherapy played a significant role in altering the memories of Shubin's clients.

56. Specifically, Dr. Barden provided a detailed expert report related to false memories and suggestive tainted interviewing techniques, opining in relevant part:

- witnesses of all ages are often vulnerable to outside influences including especially Repetitive, Leading, Suggestive, and Coercive interviews. Vulnerable witnesses often *incorporate suggested facts or narratives or repeated instructions from an interviewer's questions or other sources into their memories — resulting in actual changes in the memory of the witness. Repeated questioning is a particularly powerful methods of producing changes in the memories of vulnerable — changes the witness may not be aware of*. Such witnesses are not lying but are instead reporting **"believed-in-but false memories"** induced via improper interviewing.

⁴ The Dillon podcast/recordings of MacNab have new and heightened significance when viewed in combination with the civil questionnaires of Andrew Shubin's clients that did testify at trial.

(Amended Motion for New Trial on the Ground of After-Discovered Evidence and Request for Evidentiary Hearing, 2/8/2023, Exhibit A, at 16) (emphases in original) (hereinafter, “Barden Report”).

- *dozens of the world's leading experts in the relevant sciences have spoken publicly and clearly on the key issue of the reliability of RRM-MP[-DISS ideology and "dissociated" "blocked" "buried" or "repressed" memories of trauma that are "recovered" "clarified" "put together" "start coming back" or similar descriptions following multiple interviews/therapy/or exposure to RRM[-]MPD-Dissociation ideology (E.g. lawyer Shubin, therapist Macnab, Investigator Leiter, etc). Regarding the reliability of transformed, changed, formerly "buried", formerly "blocked", alleged "memories" the world's science experts have clarified the relevant scientific community reviewed and rejected RRM--MPD-DISS ideology-methods-practices: “Decades of research and scientific debate have clarified over and over again that the notion of traumatic events being somehow "repressed" and later accurately recovered is one of the most pernicious bits of folklore ever to infect psychology and psychiatry. This folklore provided the theoretical basis for "recovered memory therapy" -- arguably the worst catastrophe to befall the mental health field since the lobotomy era.”*

(Barden Report, at 18-19) (emphases in original).⁵

⁵ Myriad court decisions support Barden’s expert opinion. See *State v. King*, 733 S.E.2d 535 (N.C. 2012); *State v. Hungerford*, 697 A.2d 916 (N.H. 1997); *State v. Quattrocchi*, 1999 WL 284882 (R.I. Super. 1999); *U.S. v. D.W.B.*, 74 M.J. 630, 644 (Navy-Marine Crim. App. 2015); *Franklin v. Stevenson*, 987 P.2d 22 (Utah 1999); compare also *State v. Quattrocchi*, 681 A.2d 879 (R.I. 1996); see also *Hurley v. Thompson*, 2017 U.S. Dist. LEXIS 187243, *15 (“mindful of the growing consensus within the science community that the methods of memory recovery are highly unreliable, the Court finds that convictions, based solely on ‘recovered memories that were absent from the victim’s mind for several years, may be ‘so insupportable as to fall below the threshold of bare rationality.’”); see also *id.* at *16 (“a growing body of academic literature has criticized repressed memory recovery as prone to the creation of false memories.”); *Leone v. Borough*, 2016 WL 5914262 (M.D. Pa. 2016) (“despite popular misconceptions, there is little empirical support for memory repression. In fact, there is no evidence to support their authenticity or veracity.”) (internal footnote omitted); *Friedman v. Rehal*, 618 F.3d 142, 156 (2d Cir. 2010) (“Popular

- "Fervently-Believed-In-But-False-"Memories" of abuse can be (and have been) induced in many thousands of adults, adolescents, and children via exposure to RRM-MPD-DISS ideology and improper-leading- suggestive interviewing/therapy methods by police investigators, prosecutors, civil attorneys, family members, psychotherapists, etc.

Years of research, clinical experience, and jury trial investigation and legal case records clearly documented and demonstrated that multiple methods -- including exposure to abusive-leading-suggestive- repetitive interviews (e.g. Inv. Leiter's and Attorney Shubin's methods in this case), misleading information provided by Police Interviews, Interviews/Therapy with Science Uninformed Therapists and Civil Attorneys, exposure to False and Misleading Ideas about "recovered repressed memories", "blocked memories", "buried memories", and improper, leading, suggestive psychotherapy--can and have induced ***Fervently Believed-In-But-False-"Memories"*** of horrific abuse in many thousands of people (children, adolescents, and adults).

(Barden Report, at 24) (emphasis in original).

- psychotherapists or police investigators or civil attorneys conducting leading, suggestive, and improper conversations with witnesses in UNRECORDED interviews-therapy can indeed create, new, horrific, detailed, Fervently-Believed-In-But-False-"Memories" of abuse.

(Barden Report, at 28).

- *witnesses may seem firmly convinced that their memories are real even when they are not. Protecting witnesses against repeated interviews, leading and suggestive questioning, and other memory contaminative processes is thus an essential part*

memory recovery procedures included hypnosis, age regression, dream interpretation, guided abuse-related imagery, use of photographs to trigger memories, journaling, and interpretation of symptoms as implicit memories. These procedures and *others commonly employed have great potential to induce false memories.*") (emphasis added) (internal citation omitted).

of a competent investigative process (and the opposite of Inv. Leiter's and Attorney Shubin's highly improper methods).

(Barden Report, at 30) (emphasis in original).

- patients have —in thousands of cases become convinced that suggested images are actual and accurate " memories" of real trauma that were formerly "buried" " blocked" or " dissociated".

(Barden Report, at 34).

- On the records reviewed thus far this case appears to contain significant evidence supporting the alternative hypothesis that some or all of the *alleged victims were indoctrinated into the controversial, novel, pseudoscientific ideology of RRM-MPD-DISS including "recovered repressed memory" therapy, "traumatic amnesia", "dissociated memories" ` pieced together memories" "recovered trauma memories" and even "speaking to an "inner child personality" (See, alleged victim MS's book on how he recovered his "memories" and other cites to the record below) and similar very controversial, unproven, inherently unreliable novel notions that have been soundly rejected by the relevant scientific community (as a "pernicious myth")*[.]

(Barden Report, at 55) (emphases in original).

- Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that, JS (Alleged Victim #3, on July 19, 2011 - in JS's first interview with police — that is, prior to interviews-therapy with Shubin and/or Macnab), said "Sandusky never did anything inappropriate to him" and "I don't believe any of this stuff is true and /hope he is found not guilty." See, Defendant's Motion for a New Trial On the Ground of After-Discovered Evidence and Request for Evidentiary Hearing filed June 16, 2022, at Exhibit F, JS Police Report. Later, after six reported meetings with Attorney Shubin and "treatment" with affiliated therapist C. Macnab, JS's "memory" reports apparently changed radically, and JS then first began to report "memories" of criminal acts of abuse.

(Barden Report, at 65).

- Based on my initial review of the newly discovered SS-Shubin transcript, my further and ongoing investigation revealed that DS (Alleged Victim 7) in 2004, reportedly sent an application for financial aid writing "Jerry Sandusky, has helped me to understand so much about myself. He is such a kind and caring gentleman, and I will never forget him." (N.T. Trial, Day 3 at 138). Consistent with the evidence reported above, after, multiple (10-15) reported meetings with Attorney Shubin and "therapy" with Shubin-affiliated therapist C. Macnab, DS's reported "memories" were apparently radically transformed.

(Barden Report, at 65-66).

- Several of Shubin's clients reportedly previously told the OAG and state police investigators they were not abused by Sandusky but then gave different "memory" reports at trial after multiple interviews with attorney Shubin and/or after therapy with Shubin's affiliated therapist C. Macnab.

(Barden Report, at 68).⁶

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

58. Sandusky timely appealed on July 25, 2023.

59. The Superior Court affirmed the trial court order on September 19, 2024. *Commonwealth v. Sandusky*, 324 A.3d 551 (Pa. Super. 2024).

⁶ Dr. Barden's expertise is even more pertinent in light of the civil questionnaire's of those accusers who did testify at trial and the additional evidence that both counsel and the prosecution/law enforcement influenced the accusers. For example, R.R. stated, "[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." (PCRA Petition, 9/26/25, Exhibit J, ¶ 7).

60. Inconsistent with the earlier Superior Court decision of May 13, 2021, and that panel's treatment of after-discovered evidence motions filed by Sandusky, which treated those claims under Pa.R.Crim.P. 720, the Court in *Sandusky*, 324 A.3d 551, *sua sponte* considered Sandusky's after-discovered evidence motion filed on June 14, 2021 as a (timely) serial PCRA petition.

61. Sandusky did not seek allowance of appeal with the Pennsylvania Supreme Court.

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

EVIDENTIARY HEARING STANDARDS

63. Pa.R.Crim. P. 908(A)(2) provides that a court "shall order a hearing" when the petition "raises material issues of fact." *See also Commonwealth v. Brown*, 141 A.3d 491, 507 (Pa. Super. 2016).

64. This includes questions of fact concerning timeliness issues. *Commonwealth v. Brown*, 2026 Pa LEXIS 142 *30 (Pa. 2026) (filed January 28, 2026); 2026 WL 227113.

65. Accepting as true the factual averments in his petition(s) and considering all of the documents that are part of the record, as the Court must, Sandusky's 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).

PROSECUTORIAL MISCONDUCT

66. Governmental interference is both a timeliness exception and a merits-based avenue of relief under the PCRA.⁷

67. *Brady* claims can be considered under both the newly-discovered fact and governmental timeliness exceptions of the PCRA.

68. In addition, *Brady* obligations extend to and include PCRA proceedings. *Commonwealth v. Williams*, 732 A.2d 1167, 1175–76 (Pa. 1999); *cf. Bracey v. Superintendent Rockview SCI*, 986 F.3d 274, 293 (3d Cir. 2021).

69. 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

⁷ The governmental interference timeliness exception contains no diligence requirement, but courts have appeared to engraft one into the statute. Several justices on the Supreme Court of Pennsylvania have recognized this error. *Commonwealth v. Towles*, 300 A.3d 400 (Pa. 2023) (Wecht, J. concurring) and (Donohue, J. concurring).

that casts doubt upon the correctness of the conviction.” *Imbler v. Pachtman*, 424 U.S. 409, 427 n. 25 (1976).

70. 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).

71. 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).

72. Prosecutorial malfeasance influenced and infected the fairness of Sandusky’s trial.

73. Attorneys Fina and McGettigan and law enforcement influenced each of the accusers and their ever-changing accusations and also impacted and caused Janitor Ronald Petrosky to alter his hearsay testimony and the location of an alleged assault on the never identified Victim 8.

74. In this respect, 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.

75. As noted, the Commonwealth and its witness, Mr. Petrosky, changed that location at trial without pre-trial notice to Sandusky.

76. Sandusky had no access to the Assistant Coaches' locker room in the Lasch Building in November of 2000 when Petrosky originally claimed the incident occurred and had built his defense on those charges around this fact.

77. The Commonwealth's undisclosed shift until the midst of trial, while also falsely claiming the change was minor, was another example of a violation of *Brady*.

78. Indeed, it has previously been determined that the prosecution withheld the accusers' changing accounts and did not disclose those repeated changes to trial counsel.

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.

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.

79. Sandusky has previously provided the affidavit of A.Q., S.P.'s mother.

80. A.Q. testified at trial. Her affidavit asserts that Joseph McGettigan manipulated her testimony and that her son's trial testimony was, at best, unreliable and highly inaccurate.

81. Sandusky only learned of this information after his latest direct appeal was denied.

82. Sandusky could not have obtained the information earlier where A.Q. had not been willing to provide the information.

83. What is more, the Commonwealth withheld its manipulation of her testimony and the testimony of S.P.

84. The Commonwealth also knew that S.P. and A.F. were claiming to have stayed at Sandusky's residence at the same time.

85. Specifically, A.F. claimed to have stayed at Sandusky's house over 100 times and purportedly had oral sex with Sandusky during those occasions.

86. S.P. also claimed during that same period to have stayed at Sandusky's house every weekend for a three to four year period.

87. Both A.F. and S.P. claimed to have slept in the same bed in the same bedroom during the same periods but did not indicate that their stays overlapped with one another.

88. S.P.'s mother has confirmed that S.P. did not stay with Sandusky on all of the myriad occasions that S.P. falsely claimed.

89. Attorney McGettigan's and/or Attorney Fina'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 of

McGettigan to disclose known changes in witnesses' testimony, raises significant questions concerning prosecutorial malfeasance.

90. Insofar as S.P. made various statements to McGettigan and/or Fina that were inconsistent with his initial statements and grand jury testimony that were not revealed, the prosecution violated *Brady*.

91. Evidence that S.P. did not actually visit Sandusky on all the occasions he claimed he was abused is not just impeachment evidence, but is exculpatory information.

92. Evidence that is exculpatory is, by definition, not solely impeachment evidence.

93. In addition, *Brady* after-discovered evidence may entitle a person to relief even if it is impeachment evidence.

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.

94. The civil questionnaires attached to Sandusky's September 26, 2025 Petition in combination with the recordings of Cynthia MacNab, the trial testimony of multiple accusers, Michael Gillum's book *Silent No More*, public statements by

both former Attorney General Linda Kelly and civil counsel for various accusers, establish that the Commonwealth falsely represented to the trial court and the prior PCRA court that therapy played no role in the accusers' ever changing allegations.

95. For example, all of the Shubin/Feller clients,⁸ were in therapy with Cynthia MacNab, who stated that the accusers "dissociated" and repressed memories of abuse by Sandusky.

96. Shubin's clients: A.M. S.S., D.S., J.S. *all originally denied that any abuse occurred* to individuals as did Matt Sandusky, another Shubin client, yet after retaining Shubin and seeing Cynthia MacNab, the therapist Shubin sent his clients to see, each came forward with ever changing allegations of abuse

⁸ Attorney Shubin referred all of his clients to--Attorneys Joel Feller, Matthew Casey and Shannon Levin. Shubin represented J.S., D.S., R.R., and several other persons who did not testify at trial but made accusations against Sandusky: Matt Sandusky, A.M. and S.S. 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.

During Shubin's recorded interview of S.S., Shubin asked S.S. if Sandusky ever asked S.S. to touch him and S.S. responded, "*Not that I ever recall, no.*" (Motion for New Trial on the Ground of After-Discovered Evidence and Request for Evidentiary Hearing, 6/16/22, Exhibit A, at unnumbered pg. 10 (hereinafter "S.S. Interview"). S.S. added, "*I don't remember doing nothing.*" (*See id.*). Shubin then inquired, "did he, in showers, did he, um, try to have anal sex with you?" After S.S. said, "No[.]" Shubin asked, "Okay, so you don't remember that happening at all or just not in the showers?" S.S. responded, "In the showers, or I don't think ever...I don't think at least. *I don't recall that.*" (*Id.*). In discussing why he did not report any abuse when interviewed by law enforcement, S.S. exclaimed, "I just said no, nothing happened and *just buried it even more.*" (*Id.* at unnumbered pg. 18.).

97. Yet, the original prosecution team, Frank Fina and Joseph McGettigan, told trial counsel that the accusers were not undergoing therapy to aide them in recovering memories of abuse, (N.T., 1/10/13, at 41-42, 61), and, as already found, *intentionally* withheld from trial counsel that the accusers were changing their allegations (which precluded trial counsel from calling someone like Dr. Barden).

98. In this latter respect, the changing allegations of J.S., D.S., and R.R. were not disclosed to trial counsel by the prosecution. (*See* PCRA Court Opinion, 10/18/17, at 40) (finding that prosecution violated *Brady* and stating, “that information constituted impeachment evidence that the Commonwealth was obliged to disclose pursuant to *Brady* and it progeny.”).⁹

99. In fact, disgraced prosecutor Frank Fina falsely stated in direct contradiction to what Linda Kelly stated publicly, “This was not a case, Your Honor, involving a single complainant who had, you know, some kind of repressed memory and some years later came forward.” (N.T., 1/10/13, at 42).

100. Yet, new evidence demonstrates that such statements were grossly misleading--if not outright false.

⁹ Although the PCRA court concluded that the prosecution committed *Brady* violations, the PCRA court concluded that counsel “had no basis for filing a *Brady* motion either during the trial or afterward.” (PCRA Court Opinion, 10/18/2017, at 40). The PCRA court did not address Sandusky’s argument that the *Brady* violations precluded trial counsel from presenting expert testimony on memory.

101. Similarly, McGettigan set forth while questioning trial counsel during a post-trial proceeding that, “There’s nothing about recovered memory in any of these nine, 12,000 pages that we’re talking about, is there?” (*Id.*).

102. Of course, there was nothing in the discovery because McGettigan failed to disclose that the accusations were changing and that the men were now “remembering” information never before disclosed.

103. The new information presented in Sandusky’s original September 2025 Petition is precisely what undermines the prior factual findings of the PCRA court and shows that the findings were factually inaccurate/mistaken. *See e.g. Hutchison v. Luddy*, 611 A.2d 1280, 1289 (Pa. Super. 1992) (“where new evidence is placed on the record in the interim between the first trial judge’s ruling and the second trial judge’s reassessment, it is not improper for the second trial judge to reach a result different than the result reached by his or her colleague where the later result is based upon new evidence.”).

104. The civil questionnaires were never previously litigated or presented.

105. That prior therapy related issues were presented is not dispositive of the new information.

106. The Supreme Court of Pennsylvania has unequivocally held that, “An issue is not previously litigated *when it does not rely solely upon previously litigated*

evidence. *Commonwealth v. Chmiel*, 173 A.3d 617, 627 (Pa. 2017) (emphasis added).

107. Nor is the evidence cumulative or corroborative of other evidence that was introduced at trial, or even the original PCRA proceedings. *Commonwealth v. Small*, 189 A.3d 961, 974 (Pa. 2018) (“If the new evidence is of a different and ‘higher’ grade or character, though upon the same point, or of the same grade or character on a different point, it is not “merely” corroborative or cumulative, and may support the grant of a new trial based on after-discovered evidence.”); *compare also Hutchison v. Luddy*, 611 A.2d 1280, 1289 (Pa. Super. 1992) (“where new evidence is placed on the record in the interim between the first trial judge’s ruling and the second trial judge’s reassessment, it is not improper for the second trial judge to reach a result different than the result reached by his or her colleague where the later result is based upon new evidence.”).

108. Furthermore, the civil questionnaires further reveal that the Commonwealth’s claim that therapy and suggestive interviewing played no role in the accusations leveled at trial is untenable and that Attorneys Fina and McGettigan misled the court and trial counsel regarding the accusers changes in allegations--as the prosecution was well aware of the changed stories and failed to disclose them.

109. In this respect, D.S. testified during the original PCRA proceedings that during the grand jury proceedings he was “still in...a discovery stage.” (N.T., 5/11/2017, at 8).

110. He acknowledged that during his trial testimony that he stated, “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.” (N.T., 5/11/2017, at 10; N.T., 6/13/2012, at 143).

111. He also admitted that he had testified at trial that, “Through counseling and through talking about different events, through talking about things in my past, different things vary, 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.” (N.T., 5/11/2017, at 10; N.T., 6/13/2012, at 146).

112. D.S. testified that “more has come out in part due to therapy and counseling.” (N.T., 5/11/2017, at 16).

113. D.S. was not the only witness who testified at trial differently than prior statements and testimony.

114. J.S., in his initial interview, denied that anything untoward happened with him and Sandusky. (Original PCRA Appendix, at 492, Pennsylvania State Police Report, 7/19/11; *see also* N.T., 6/14/2012, at 109, 114).

115. Notably, J.S. had at one time wanted to be adopted by Sandusky.

116. But after retaining Attorney Shubin and apparently undergoing therapy with Cynthia MacNab his story dramatically changed.

117. He testified before the grand jury on August 18, 2011, claiming that Sandusky had twice touched his penis through his shorts. (PCRA Appendix, at 706; N.T., Grand Jury, 8/18/11, 10-14, 17-19, 21-23; N.T., 6/14/2012, at 120-123).

118. Again, after meetings with Shubin and apparently MacNab, his trial testimony would be materially different. (*See* N.T., 6/14/2012, at 119-122).

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

120. 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).

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

122. B.S.H. testified that “I have spent, you know, so many years *burying this in the back of my mind forever.*” (N.T., 6/11/12, at 162-163).

123. 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.

124. 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).

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

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

127. 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.

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

129. 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.

130. 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.

131. The prosecution would submit an amended bill of particulars on May 18, 2012 reflecting this drastic alteration.

132. 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.

133. 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 Benjamin Andreozzi.

134. 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.

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

136. 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.

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

138. 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.” (PCRA Petition, 9/26/25, Exhibit A).

139. 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 trial testimony.

140. The Superior Court has previously recognized, “[t]he long delay in reporting the persistent memory of the first incident and the recovery of memories of the intervening incidents, would, *inter alia*, raise an issue of the reliability of the recovered memories.” *Commonwealth v. T.J.W.*, 114 A.3d 1098 (Pa. Super. 2015).

141. Affidavits from R.R. (alleged Victim 10) and the mother of alleged Victim 9 also establish that the Commonwealth engaged in questionable tactics to influence testimony of its witnesses.

142. Notably, 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.” (PCRA Petition, 9/26/25, Exhibit J, ¶ 7).

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

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

145. It is also known that the prosecution, post-trial, reaped economic rewards based on the allegations of alleged Victim 9, S.P.--establishing a trust on his behalf and his mother’s behalf.

146. The Commonwealth ignores these facts and instead contends that it was only after Sandusky’s trial that the prosecutors profited from Victim 9’s allegations.

147. But questions of fact exist as to whether the prosecution team and Attorney McGettigan’s subsequent law partner, Attorney McAndrews, discussed remuneration based on pursuing a civil suit on behalf of S.P. prior to or during the trial and sentencing of Sandusky.

148. In fact, 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. (PCRA Petition, 9/26/25, Exhibit K at 8).

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.

MICHAEL GILLUM

149. Prior to Sandusky's trial, Mr. Gillum was a relatively obscure psychologist with money troubles--having apparently declared bankruptcy at one point.

150. Gillum would become an integral part of the prosecution team, coaching Victim 1, A.F., attending A.F.'s grand jury testimony, and influencing both investigators and alleged victims throughout the process.

151. Gillum would also "treat" B.S.H.

152. Gillum acknowledged in his book written with A.F., *Silent No More*, that during trial he sat with prosecutors Jonelle Eshbach and Acting Attorney General Linda Kelly, directly behind Attorneys McGettigan and Fina. (*Silent No More*, 191).

153. Gillum's significant role was unknown to trial counsel at the time.

154. But, in fact, it was Gillum, who first suggested to A.F. that Sandusky had sexually abused A.F.

155. Prior to A.F.'s therapy with Gillum, he never acknowledged any sexual abuse. (N.T., 6/12/12, 72-74; *id.* at 153-159).

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

157. Indeed, when A.F. denied that Sandusky had performed oral sex, Gillum went into damage control and instructed A.F.'s mother to provide him with Ativan, (*Silent No More*, at 119), and coached A.F. so that A.F. would change his testimony.

158. Gillum, in *Silent No More*, discussed in detail his therapy and (questionable) methods of treatment.¹⁰

159. A.F. himself would 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.").

160. A.F. set forth, 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

¹⁰ The book was published on October 23, 2012, approximately two weeks after Sandusky's original sentencing.

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).

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

162. Gillum also 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).

163. According to A.F., “Mike kept explaining to me what Jerry’s MO was. What the MO is for all guys like Jerry. Mike just kept saying that Jerry was the exact profile of a predator.” (*Id.* at 72).

164. According to A.F., “I saw Mike everyday for weeks and I called his cell whenever I needed him.” (*Id.* at 73).

165. Gillum, after A.F. did not make sexual allegations against Sandusky to State Police Troopers Cavanaugh and Akers, commented in his book, “I’d spent quite a bit of time with [A.F.] after the initial state troopers, Cavanaugh and Akers, had their interview with him. There was a lot of damage control to be done.” (*Id.* at 93).

166. Thus, Gillum did not act as a neutral disinterested party, but actively led A.F. and led him to make sexual allegations--all while disregarding that A.F.’s

father was a registered sex offender and that A.F.'s step-father also was arrested and pled guilty to 100 counts of charges related to child pornography and exploitation of children.

167. Gillum went so far as to “demand[] an arrest date. I went as far as to say that if they didn’t give me a date and stick to it, we were just going to take the story to the media.” (*Id.* at 158).

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

169. 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 A.F. known or revealed to trial counsel before trial. Rather, it was merely disclosed that Gillum had been present for A.F.’s grand jury testimony.

170. Critically, Gillum disregarded virtually every protocol for alleged sex abuse interviews, which outline that the interviewer is to adopt a neutral stance until the investigation is complete, ask open ended questions, avoid suggestion and leading questions, investigate and gather information regarding the person’s family and friends, avoid confirmatory bias and stereotype induction, record interviews,

separate forensic interview from therapy, avoid praise for revelations, and refrain from unnecessary contacts.

171. Although claiming during his PCRA testimony that leading and suggestions are improper protocols, Gillum in his book provided the precise opposite, stating, "Of course, when [A.F.] came in, I wasn't concerned with protocol." (*Silent No More*, 82).

172. Gillum acknowledged stating, in leading and confirmatory fashion, to A.F., " Look, I know something terrible happened to you." (*Id.* at 68).

173. Gillum also commented that when A.F. said that no one at school would believe him, Gillum responded, "Whatever happened to you, I will believe you." (*Id.* at 65).

174. Gillum also wrote "I was blunt with him when I asked questions but gave him the ability to answer with yes or no and that relieved him of a lot of burden." (*Id.* at 67).

175. A.F. confirmed that, "As long as I told him something happened, I didn't need to go into detail. I just needed to tell him something sexual happened, like touching or oral sex. All I had to say was yes or no." (*Id.* at 71).

176. Gillum's improper influence is revealed by the following timeline and facts.

177. A.F. was interviewed by CYS on or about November 20, 2008, and did not reveal any sexual misconduct.

178. A.F. was interviewed on November 21, 2008 by State Police Trooper Cavanaugh and stated that no sex acts occurred.

179. In a March 12, 2009 interview with State Police, A.F. again stated that no sex acts transpired.

180. A week later, *when interviewed by Gillum* and State Police again, A.F. now claimed that Sandusky performed oral sex on him and he performed oral sex on Sandusky.

181. In a June 8, 2009 interview by Trooper Rossman, following Gillum's intervention, A.F. would also state that oral sex occurred.

182. As one expert has provided, several reasons exist for why a person would make a false allegation of sexual abuse, which include....conscious manipulation for gain, and iatrogenic, *i.e.*, doctor or professionally induced. *See e.g., Commonwealth v. Hussey*, 2017 Pa. Super. Unpub. LEXIS 1021, *16-17 (testimony of Dr. Frank Dattilio in response to Commonwealth questioning stating, "there may be conscious manipulation for reasons of secondary gain, to fabricate them....And then the last is what we call iatrogenic.... Literally, doctor or professional induced. And that can be deliberate, but it also can be non-deliberate by virtue of the fact that the individuals who investigate may be doing a less than adequate job in

ferreting out the truth. And there can be a lot of reasons for that. You know, law enforcement, they're inundated with cases. ... They're busy, they don't have a lot of time, they do the best that they can, but sometimes it's harried. They do quicker interviews, and sometimes it may be induced by virtue of leading questions.”).

183. Prior PCRA counsel were ineffective in failing to adequately and timely present the Gillum claim as more fully detailed in Sandusky’s prior filings.

*KATHLEEN MCCHESNEY AND OAG COORDINATION WITH
THE FREEH GROUP*

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.

184. Kathleen McChesney was part of the Freeh Group investigation at Penn State University and was an investigative co-team leader.

185. She kept a “diary” that summarized twice daily briefings and referenced other notable events throughout the investigation.

186. On November 4, 2019, Attorney Al Lindsay received a photocopy of the McChesney diary, which described the Freeh Group investigation.

187. Sandusky would be re-sentenced on November 23, 2019, and file an appeal.

188. Prior PCRA counsel did not bring forward the McChesney diary and related information before sentencing or at the November 23, 2019 sentencing.

189. On or about February 5, 2020, Attorney Lindsay also received summaries of email correspondence between the Office of Attorney General and the Freeh Group.

190. The McChesney diary and email summaries established that the OAG was leaking information to the Freeh Group and that both the OAG and Freeh Group were freely exchanging information.

191. Among other things, Attorney Frank Fina provided the Freeh Group with grand jury transcripts and notified them of the intent to arrest Graham Spanier.

192. Sandusky, on February 20, 2020, requested his counsel to file a motion asking for a new trial based on the new information and again did so on February 22, 2020.

193. On March 10, 2020, Attorney Lindsay also received a summary of an interview between the Freeh Group and Laura Pauley. Ms. Pauley was a Penn State University employee who became a juror at Sandusky's trial.

194. Sandusky again requested on March 16, 2020, that his then counsel file a motion for new trial.

195. Re-sentencing counsel did not do so, but raised the issue in a Pa.R.A.P. 1925(b) Concise Statement.

196. Since Sandusky had an appeal pending, counsel filed a motion with the Superior Court on May 9, 2020, that included the McChesney diary and email summaries and Laura Pauley interview issues.

197. On May 13, 2021, the Superior Court ruled the after-discovered evidence related to the McChesney diary and Laura Pauley claims were not “promptly” raised under Pa.R.Crim.P. 720 and declined to reach the merits of those claims (as a direct result of ineffective assistance of prior appellate counsel). It did not treat the relevant non-promptly filed after-discovered evidence motion as a PCRA petition.

198. Notably, Sandusky had previously, during his first PCRA proceedings, alleged that the Office of Attorney General had leaked grand jury information.

199. The prior PCRA court and the Superior Court in *Sandusky*, 203 A.3d at 1085-89, rejected Sandusky’s claims on the grounds that Sandusky had not provided evidence that the OAG had leaked any information.

200. The McChesney diary and email summaries directly contradict that finding and the PCRA testimony of Frank Fina, who claimed to not have leaked information. The information was filed under seal previously with the Court.

201. The information establishes that Attorney Fina and other members of the OAG were leaking information and testimony from the grand jury--and that Attorney Fina's prior PCRA testimony previously deemed credible was, at best, incomplete.¹¹

202. A Penn State Board of Trustees report confirms that Attorney Fina and two OAG agents, Randy Feathers and Anthony Sassano, were in frequent contact with the Freeh Group including in person, telephone and email contacts.

203. The McChesney diary, kept daily, documents certain of those communications.

204. The diary excerpts and summaries are not hearsay.

205. The purpose of the diary excerpts is to show that the Commonwealth misled the court as it was actively involved with the Freeh Group.

206. Kathleen McChesney can also be called to testify concerning the diary.

207. In addition, the Penn State Board of Trustees confirms that Agent Sassano, who testified during Sandusky's original PCRA hearings, provided information to the Freeh Group regarding documents taken from the Sandusky home.

¹¹ Attorney Fina was questioned about grand jury leaks to the media--not the Freeh Group. He claimed that he initiated some type of "sting" operation to determine if the OAG was leaking information to Sara Ganim--a news reporter. The prior PCRA court deemed that testimony significant and credible, finding that a person leaking information would purportedly not investigate himself.

208. Re-sentencing counsel was ineffective in failing to timely present this after-discovered evidence, which refuted prior findings concerning the OAG's leaking of grand jury information.

209. The September 2025 PCRA petition was the first opportunity to raise those re-sentencing counsel ineffectiveness claims, which did not arise until re-sentencing counsel obtained the information and the re-sentencing appeals were completed.

210. There was no strategic reason for untimely bringing the after-discovered evidence forward during one of Sandusky's appeals--and the delay caused the issues to be summarily denied without the opportunity to present evidence. Thus, Sandusky suffered prejudice.

211. Sandusky further suffered prejudice as outlined above because the McChesney evidence could have been used in support of Sandusky's previous claims related to the OAG's leaking of grand jury information.

WHEREFORE, this Court should grant an evidentiary hearing on Sandusky's claims for which no hearing has been granted.

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 not previously identified in Sandusky's September 2025 PCRA petition, may be called to testify:¹²

Dr. Kathleen McChesney
Kinsale Management Consulting
1446 Imperial Drive
Glendale, CA

Dr. McChesney could be called to authenticate the "McChesney Diary" and testify concerning the entries therein that, at minimum, pertain to communications and information received by the Freeh Group from the Pennsylvania Office of Attorney General, including the OAG providing the Freeh Group with grand jury transcripts and other confidential grand jury information, as well as any other information pertinent to Sandusky's claims and her role with the Freeh Group and its investigation and coordination with Attorneys Frank Fina and Jonelle Eshbach and other agents with the OAG.

Attorney Dennis McAndrews
30 Cassatt Ave
Berwyn, Pennsylvania 19312

Attorney McAndrews could be called to testify related to his hiring of Joseph McGettigan following the Sandusky trial, any discussions with Attorney McGettigan or other members of the Sandusky prosecution team concerning Attorney McAndrews representing S.P. related to civil claims against Penn State University or recommending civil counsel to S.P. and S.P.'s mother.

¹² Should the Court grant a hearing as to additional claims other witnesses including the accusers and other previously identified witnesses such as Andrew Shubin, Cynthia MacNab, Dr. Christopher Barden, A.J. Dillon, Michael Gillum, would be presented and witness certifications provided related thereto.

Attorney McAndrews could also be questioned concerning whether Attorney McGettigan received any type of referral fee related to S.P., whether Attorney McAndrews spoke with S.P. during trial concerning representation or recommending civil counsel at the behest of Attorneys McGettigan or Fina. In addition, Attorney McAndrews would be called to testify concerning Attorney McGettigan and Attorney Fina and each of their roles in administering a trust for S.P. and S.P.'s mother based on funds received from his civil settlement from Penn State University, and whether discussion concerning civil claims and settlement occurred with S.P. during the period of Sandusky's trial and/or the original sentencing of Sandusky.

Jasmine Rittmeyer

Ms. Rittmeyer has provided an Affidavit that was previously produced. She would testify consistent with the information provided therein.

CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that on the 17th day of June, 2026 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:

Cari Mahler
Office of Attorney General
Appeals & Legal Services Section
16th Floor, Strawberry Square
Harrisburg, PA 17120
cmahler@attorneygeneral.gov

Kendra J. Miknis
Court Administrator of Centre County
Centre County Courthouse, Room 103
102 South Allegheny Street
Bellefonte, PA 16823
kjmiknis@centrecountypa.gov

Jessica A. Arnold
Warren/Forest County Court Administrator
204 Fourth Avenue
Warren, PA 16365
jarnold@warrencountypa.gov

Judge Maureen A. Skerda
37th Judicial District
Warren County Courthouse
204 Fourth Avenue
Warren, PA 16365

/s/J. Andrew Salemme