

**IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY
CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	CP-14-CR-2421-2011
	:	CR-14-CR-2422-2011
GERALD A. SANDUSKY	:	

COMMONWEALTH’S EVIDENTIARY HEARING MOTION *IN LIMINE*

TO THE HONORABLE MAUREEN A. SKERDA, SPECIALLY PRESIDING:

DAVE W. SUNDAY, JR., Attorney General of the Commonwealth of Pennsylvania, by and through CARI L. MAHLER and JAIME M. KEATING, Senior Deputy Attorney Generals, hereby state the following in support of the Commonwealth’s Evidentiary Hearing Motion *in Limine*:

I. INTRODUCTION

In connection with defendant’s third untimely PCRA petition, this Court has granted an evidentiary hearing on a single issue: defendant’s newly-discovered facts claim pertaining to the June 2025 recantation of victim R.R. During the May 27, 2026 scheduling conference with this Court, defendant indicated that, in addition to R.R., he intends to present testimony from Jasmine Rittmeyer (R.R.’s estranged wife), Frank Parlato (Sandusky family investigator who secured the recantation from R.R.), and Frank Fina (one of the trial prosecutors in this case). Because much of the proposed testimony by the defense witnesses (as set forth in their affidavits) contains irrelevant and/or inadmissible evidence, the Commonwealth files this Motion *in Limine* in an attempt to streamline the evidentiary hearing on September 8, 2026. Furthermore, the Commonwealth requests that the defense provide it with materials directly relevant to the recantation claim in compliance with section 9545(d)(1) of the PCRA.

II. MOTION *IN LIMINE*

Defendant's recantation claim has been raised in the context of the newly-discovered facts exception to the PCRA time-bar.

To recap the pertinent law, as an initial jurisdictional threshold, to establish the newly-discovered facts exception, defendant must allege and prove that: (1) the facts upon which the claim was predicated were unknown; and (2) could not have been ascertained earlier by the exercise of due diligence. *Commonwealth v. Brensinger*, 218 A.3d 440, 448-49 (Pa. Super. 2019); *See* 42 Pa.C.S.A. § 9545(b)(1)(ii). The timeliness exception requires defendant "to demonstrate [that] he did not know the facts upon which he based his petition and could not have learned those facts earlier by the exercise of due diligence." *Commonwealth v. Brown*, 111 A.3d 171, 176 (Pa. Super. 2015).

To obtain relief based on newly-discovered facts pursuant to a merits analysis, defendant 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. *Commonwealth v. Pagan*, 950 A.2d 270, 292 (Pa. 2008). "The test is conjunctive; the [defendant] must show by a preponderance of the evidence that each of these factors has been met in order for a new trial to be warranted." *Commonwealth v. Foreman*, 55 A.3d 532, 537 (Pa. Super. 2012) (quoting *Commonwealth v. Padillas*, 997 A.2d 356, 363 (Pa. Super. 2010) (citation omitted)).

In assessing the fourth prong of the test, whether after-discovered evidence would result in a different verdict, the Court should "consider the integrity of the alleged after-discovered evidence, the motive of those offering the evidence, and the overall strength of the evidence

supporting the conviction.” *Padillas*, 997 A.2d at 365 (citing *Commonwealth v. Parker*, 431 A.2d 216, 218 (Pa. 1981)). “[C]ases that have addressed [after-discovered evidence] have focused not simply on the credibility of the person offering the exculpatory evidence, but on the credibility or trustworthiness of the evidence itself, as well as the motive, or other impeaching characteristics, of those offering it.” *Id.* (quoting *Argyrou v. State*, 709 A.2d 1194, 1204 (Md. 1998)).

Furthermore, after-discovered evidence must be “producing and admissible” at the new trial. *Commonwealth v. Brosnick*, 607 A.2d 725, 727 (Pa. 1992); *Commonwealth v. Smith*, 540 A.2d 246, 263 (Pa. 1988); *Commonwealth v. Scott*, 470 A.2d 91 (Pa. 1983) (in cases involving after-discovered evidence, in addition to meeting the general requirements for after-discovered evidence, the proposed evidence must also be both producing and admissible); *Commonwealth v. Griffin*, 137 A.3d 605, 608 (Pa. Super. 2016) (proposed new evidence must be “producing and admissible”). See *Commonwealth v. Abu-Jamal*, 941 A.2d 1263, 1269-70 (Pa. 2008) (witness’ testimony regarding other witness’ alleged perjury does not meet § 9545(b)(1)(ii)’s exception because a claim based on inadmissible hearsay does not implicate this exception).

The admission of evidence is solely within the discretion of the trial court. *Commonwealth v. Rich*, 167 A.3d 157, 160 (Pa. Super. 2017). Only relevant admissible is admissible. “Evidence is relevant if it logically tends to establish a material fact in the case, tends to make a fact at issue more or less probable or supports a reasonable inference or presumption regarding a material fact.” *Commonwealth v. Williams*, 58 A.3d 796, 800 (Pa. Super. 2012) (quoting *Commonwealth v. Fransen*, 42 A.3d 1100, 1106 (Pa. Super. 2012)).

Applying these principles to the recantation claim before this Court, the Commonwealth requests the following preclusions regarding the proposed testimony of defense witnesses Jasmine Rittmeyer, Frank Parlato, and Frank Fina:

A. Jasmine Rittmeyer – R.R.’s Estranged Wife

Defendant has proffered an affidavit from R.R.’s estranged wife (hereinafter “Jasmine”), dated October 28, 2025, in which she states: (1) that after news of defendant’s arrest was publicized in November 2011, R.R. initially denied that defendant had sexually abused him when she asked him about it; (2) that later that same day, R.R. told her that he called the victim hotline and said that something had happened with defendant; (3) that R.R. then gave an interview to law enforcement disclosing some of the abuse; (4) that over time, R.R. gradually disclosed more details of defendant’s sexual abuse of him as a child; (5) that after the trial, R.R. obtained counsel for a civil suit against PSU and subsequently received a 5 million dollar settlement; and (6) that it was not until defense investigator Frank Parlato contacted R.R. twelve years after trial and “suggested that it would be beneficial for [him] to recant his testimony” that R.R. then recanted. “Having studied the Sandusky case,” Jasmine’s affidavit concludes with her opinion that R.R. was not sexually abused as a child by defendant, that R.R.’s trial testimony was not truthful, and that defendant was the victim of a “grave injustice” to which her soon-to-be-ex-husband participated.

The opinion of R.R.’s estranged spouse thirteen years after defendant’s trial, pondering what she thinks may or may not have really happened to R.R. when he was 10 years old, or any other Sandusky child victim for that matter, is irrelevant and inadmissible. A jury convicted defendant after hearing all the evidence and observing the victims and witnesses testify. That Jasmine may have formed a different opinion, at whatever time and for whatever reason, has no bearing on any issue in these PCRA proceedings. Any opinion testimony by Jasmine regarding defendant’s guilt or innocence should be precluded. Likewise, any opinion testimony by Jasmine regarding whether she believes R.R. told the truth about his child sex abuse at trial should be precluded.

The Commonwealth requests that any testimony by Jasmine be limited to: (1) her firsthand observations of R.R.'s interactions with law enforcement and the prosecution team prior to and at the time of trial regarding his allegations of sexual abuse by defendant; (2) the circumstances surrounding and leading up to R.R.'s June 2025 recantation affidavit of which she has personal knowledge; and (3) any events occurring after R.R.'s June 2025 recantation affidavit that is directly relevant to the recantation claim before the Court.

B. Frank Parlato – Sandusky Family Investigator

Defendant has proffered a 10-page affidavit from Frank Parlato, Sandusky family investigator, in which he, *inter alia*: (1) gives his own opinions on the witnesses and evidence in the case; (2) presents the purported opinions of another individual about the evidence in the case; and (3) sets forth his characterization and interpretation of what is stated in the June 2025 affidavit of R.R.

Parlato's personal opinions on the witnesses and evidence in this case are irrelevant.

Moreover, Parlato's accounts of what other people supposedly told him about the evidence in this case is irrelevant and inadmissible hearsay. *See* Pa.R.E. 801(c), 802 (hearsay is a statement, other than a statement made by the declarant while testifying under oath, which is offered for the truth of the matter asserted; generally, hearsay is inadmissible); *Commonwealth v. Yarris*, 731 A.2d 581, 592 (Pa. 1999) ("A claim which rests exclusively upon inadmissible hearsay is not of a type that would implicate the after-discovered evidence exception to the timeliness requirement, nor would such a claim, even if timely, entitle Appellant to relief under the PCRA.").

Parlato's interpretations, characterizations and feedback regarding the contents of the affidavit that he secured from R.R. in June 2025 is also irrelevant. R.R.'s affidavit is a document that speaks for itself. All of this should be excluded from Parlato's evidentiary hearing testimony.

For purposes of the recantation claim before this Court, the only relevant testimony from Parlato would pertain to the following: the circumstances surrounding how he secured the recantation affidavit from R.R. in June of 2025; the sequence of events leading up to that; his contacts and communications with R.R., directly and indirectly, prior to obtaining the June 2025 recantation from R.R; and his contacts with R.R., directly and indirectly, since he secured his affidavit in June of 2025. The Commonwealth requests that this Court limit Parlato's testimony accordingly.

C. Frank Fina – Trial Prosecutor

As an initial matter, for purposes of an evidentiary hearing, pursuant to section 9545(d)(1) of the PCRA, a defendant must provide a signed certification with respect to each witness' proposed testimony, and the signed certification must contain "the witness's name, address, date of birth and substance of testimony and shall include any documents material to that witness' testimony." 42 Pa.C.S.A. § 9545(d)(1). Failure to substantially comply with these requirements "shall" render the proposed witness's testimony inadmissible. *Id.* While defendant says he intends to present trial prosecutor Frank Fina as a defense witness at the evidentiary hearing, he has failed to provide a signed certification with respect to his proposed testimony. Without the required certification regarding Mr. Fina's proposed testimony, the Commonwealth cannot take a position as to whether or not it objects to the substance of his testimony. The Commonwealth requests that defendant comply with this mandate.

Additionally, consistent with this Court's Order of April 10, 2026 granting an evidentiary hearing solely on the R.R. recantation claim, the evidentiary hearing testimony of Frank Fina should be strictly limited to the following: Mr. Fina's pre-trial interactions and communications with R.R. regarding his allegations of sexual abuse against defendant; Mr. Fina's interactions and communications with R.R. at the time of trial in connection with his allegations of sexual abuse against defendant; and Mr. Fina's personal knowledge of and firsthand observations of R.R.'s interactions and communications with other members of the Sandusky prosecution team prior to and at the time of trial.

Defendant should be precluded from questioning Mr. Fina about any other matter that is not directly relevant to the R.R. recantation claim.

III. COMPLIANCE WITH SECTION 9545(d)(1) OF PCRA

In accordance with section 9545(d)(1) of the PCRA (a defendant must provide a signed certification with respect to each witness' proposed testimony at an evidentiary hearing, and the signed certification must contain "the witness's name, address, date of birth and substance of testimony and shall include any documents material to that witness' testimony" and failure to substantially comply with these requirements "shall" render the proposed witness's testimony inadmissible), the Commonwealth requests that defendant be directed to provide it with all documents or materials relevant to the evidentiary hearing testimony of proposed defense witnesses R.R., Jasmine Rittmeyer and Frank Parlato pertaining to the R.R. recantation claim before the Court.

This includes any and all post-trial interviews, statements or accounts provided by proposed defense witnesses R.R. and Jasmine Rittmeyer (in written, video, recorded or audio format) that pertain to or address R.R.'s allegations of sexual abuse by defendant, R.R.'s trial testimony, or the current R.R. recantation claim before the Court.

IV. CONCLUSION

To ensure that the evidentiary hearing proceeds as efficiently and smoothly as possible, with limited objections regarding relevance and admissibility interrupting the course of the testimony, the Commonwealth respectfully requests that the Court limit the testimony of the proposed defense witnesses as proposed above.

Respectfully submitted,

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Date: July 6, 2026

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this filing complies with the provisions of the *Public Access Policy of the Unified 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.

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