



Ben Present

The Legal Staff

December 14, 2011

Sandusky Waives Preliminary Hearing

Before the start of business Tuesday, former Penn State assistant coach Jerry Sandusky stunned a jam-packed courtroom with the decision to waive his right to a preliminary hearing. It was an abrupt departure from the defense's widely advertised strategy for the proceedings.

While several attorneys representing some of the alleged victims in the sex abuse scandal said the decision could foreshadow a plea agreement, Sandusky's attorney returned to a horde of media outside the Bellefonte, Pa., courthouse to dispel any such notion. State prosecutors also announced no plea discussions have taken place.

"Jerry Sandusky is more adamant than ever in his innocence," said his attorney, Joseph L. Amendola. The lawyer also announced Sandusky's official plea of not guilty to the 52-count child sex abuse charges the former coach faces, following the brief court session.

Amendola said the defense was investigating whether Sandusky's alleged victims colluded with one another to benefit financially.

There would be no plea negotiations, he said.

As many as 11 witnesses, most of whom were alleged victims, were prepared to testify Tuesday against Sandusky, who entered the courtroom from the rear doors just before 8 a.m., silencing about 200 onlookers.

But that never happened.

The accusers, along with key witness Mike McQueary, were spared having to take the stand. The alleged victims never came to the courthouse and several of the accusers' attorneys said

their clients awaited a directive at an off-site staging area for the Attorney General's Office. That directive never came.

Now, Amendola said the defense would look into whether the 10 alleged victims plotted against the former coach, his charity, and Penn State University to gain financially.

He said more accusers were a possibility.

When asked what motive the accusers would have to fabricate an elaborate case against Sandusky, Amendola said: "I can think of about 9 million reasons."

The comment was a reference to the \$9 million reported in the bank account of The Second Mile charity, through which Sandusky allegedly met and groomed several of his victims.

The vast resources of Penn State University, Amendola said, could present similar motivation. "It's going to be part of our case and we're checking in on it," he said.

Speaking for about an hour and faced with a barrage of questioning, Amendola told reporters that the nature of preliminary hearings played into the 11th-hour decision. The lawyer, who had publicly maintained he looked forward to cross-examining the accusers, said he and Sandusky made the decision late Monday night.

Amendola's co-counsel, Karl Rominger, joined him at the podium.

The proceedings "really would have left us with the worst of all worlds," Amendola said, because no credibility determinations can be made at preliminary hearings.

He later said: "This is a fight to the death. We are defending Jerry Sandusky's life."

While the decision to forgo the proceedings does allow the accusers to avoid the possibility of becoming identified for now, attorneys for the alleged victims said the last-minute decision caused their clients undue distress.

Jeff Fritz and Ben Andreozzi, who represent Victim 4 from the original grand jury presentment, released a handwritten statement from their client late Tuesday morning.

"This is the most difficult time of my life," the statement read. "I can't put into words how unbearable this has been on my life, both physically and mentally. I can't believe they put us through this until the last second only to waive the hearing."

But following Amendola's remarks to the media, Fritz said his client became emboldened. "He is empowered even further after hearing repeated denials of the charges by Sandusky and his lawyer," Fritz wrote to *The Legal* in a text message.

Andreozzi is a member of the National Crime Victim Bar Association, of which Fritz is president. The bar association is an arm of the National Center for Victims of Crime.

Philadelphia-area attorneys Michael Boni and Slade McLaughlin represent Victim 1 from the grand jury presentment.

After court was hastily adjourned Tuesday, Boni said the legal team was surprised by Sandusky's decision but hoped it meant a plea deal was imminent.

McLaughlin said he would not be surprised if that were the case.

[Thomas R. Kline](#) also represents one of the accusers who did not take the stand Tuesday. He said the decision to forgo a preliminary hearing is not customarily made at the last minute and questioned the reliability of future public statements made by the defense.

"The decision to waive a preliminary hearing is not made on the spur of the moment," Kline said. "There was no intention [by the defense] to go forward with a preliminary hearing."

For Amendola to couch the decision as one made at the last minute, Kline said, raises questions about the defense attorney's statements that no plea agreement is on the way.

"You had the brinkmanship of the defense forcing a hearing, then at the last minute the will to force the hearing's collapse," Kline said. "So you have to question anything the defense says going forward at this point."

He called the notion that Sandusky's accusers colluded in order to turn a profit "offensive," noting that a number of the alleged victims became involved only after the Office of the Attorney General had contacted them.

"The fact that there is a civil remedy is separate and apart from motivation to cooperate with the Attorney General's Office," he said.

The decision to waive the hearing — one that is commonly chosen by criminal defendants in Pennsylvania — appears surprising in light of public comments Amendola had made heading into Tuesday's proceedings.

Amendola had told the media on several occasions that his client looked forward to identifying the alleged victims at Tuesday's hearing. The comments contributed to an already cosmic spotlight on downtown Bellefonte, a town with a population of about 6,000.

State Deputy Attorney General Marc Costanzo was the first to greet reporters after the hearing was waived.

"The decision was surprising," Costanzo said, but added that it could benefit the state's case against Sandusky.

By not creating a second record with testimony from a probable cause hearing, the prosecution moves to trial armed with the allegations from the two grand jury presentments.

Two administrators implicated by the scandal — former Penn State Athletic Director Timothy Curley and former Vice President of Business and Finance Gary Schultz — face charges of failing to report sexual abuse and perjury.

The men, who have both maintained their innocence, were set to report to court in Harrisburg Friday for their preliminary hearings. As of Tuesday, there was no indication they would waive that right.