

The New York Times

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Published: June 13, 2012

Defense Highlights Inconsistent Witness Testimony at Sandusky Trial

BELLEFONTE, Pa. — The first three days of the trial against Jerry Sandusky, the former Penn State assistant football coach charged with being a serial pedophile, has followed a familiar pattern. Prosecutors have questioned young men who said Sandusky met them when they were children at his charity, Second Mile; showered them with gifts; and sexually abused them. The testimony has been heart-wrenching and seemingly unassailable.

Sandusky's lawyer, Joe Amendola, has had the awkward task of having to cross-examine the witnesses, some of whom were still wiping tears from their eyes. His main strategy has been to try to find inconsistencies in their testimonies and earlier statements to the grand jury, police investigators and child service workers.

Amendola has asked witness after witness why dates they provided did not agree, sometimes fluctuating by years. In another instance, an accuser was asked why he said he was abused 20 times but had placed the number at 30 another time.

Amendola has not directly questioned whether a witness had ever been sexually abused by Sandusky. But in illustrating how witnesses have changed their stories, sometimes significantly, he is asking the jury to question their reliability. Amendola seems to be saying that if something happened 20 times or 30 times, it might not have happened at all.

The strategy might seem like a desperate gambit, but it is a tried and tested technique, legal experts said. Defense lawyers shy away from calling a witness a liar, especially one who may have gone through something as traumatic as child abuse. But they often try to undermine a witness's credibility by trying to make the witness's memories appear hazy.

While juries may forgive a witness for forgetting a date or two, they may start to question the integrity of a prosecutor's case if witness after witness has trouble remembering basic facts and figures.

"A head-on attack gets you nowhere," said Jules Epstein, an associate professor of law at Widener University School of Law in Wilmington, Del. "But there can be a tipping point when the quantity of the inconsistencies, or sometimes the nature of them, raises doubts."

Defense lawyers can only rely on the material they have, and in this case that includes testimony the witnesses gave before the trial. Amendola has repeatedly trotted out transcripts of witness testimony that had been given to the grand jury and law enforcement officials. He has frequently illustrated the differences in witnesses' testimony, and then abruptly ended his cross-examination.

Not surprisingly, lawyers for some of the witnesses say that Amendola may be able to raise questions about a specific time or date but won't be able to refute the basic facts at issue: that Sandusky molested young boys, often repeatedly.

"The defense is stuck with, as we've seen in witness after witness, trying to ding and dent and not torpedo," said [Tom Kline](#), a lawyer representing one of the witnesses who testified Wednesday.

Still, Epstein and other legal experts said that it was too early to say if the defense's strategy has failed because the defense has yet to tell its side of the story. Some witnesses whom Amendola will call may contradict the testimony already offered, and the gaps in memory that Amendola has exposed may be amplified further.

On Wednesday, Amendola and Karl Rominger, his associate, tried to raise doubts about the credibility of several witnesses, most notably John McQueary, the father of Mike McQueary, a former Penn State graduate assistant football coach who testified that he saw Sandusky pinning a young boy against a wall in a shower on campus.

After John McQueary corroborated his son's version of the events that occurred in 2001, he was asked by Rominger to discuss comments he made a year ago to the grand jury. Flustered, McQueary said he had not made those comments. Rominger then tried to show him the transcript of his comment. But Judge John Cleland cut off Rominger, saying, "He just said he wasn't there."

Later, Amendola asked a witness, now 25, why he failed to tell investigators last year that Sandusky had forced him to have oral sex, yet made that accusation while on the stand Wednesday. The man said he did not want to go into much detail with investigators because his wife and mother were present at that interview.

In the cross-examination of another accuser, Amendola got the man, now 27, to admit that there were several inconsistencies in comments he made to a grand jury last year and comments he made Wednesday. He also got the man to acknowledge that he had hired a lawyer and that he knew at least two other accusers.

In response to why his testimony now included more details, the man said that a counselor he had recently been seeing helped him recall more about his past.

“That doorway that had been closed has since been opened,” the man said. “Through a lot of counseling, I’ve been able to remember a lot more.”