

The Philadelphia Inquirer philly.com

June 17, 2012

By Jeremy Roebuck,
Inquirer Staff Writer

A risky question: Will Sandusky take the stand?

BELLEFONTE, Pa. - For four days last week, witness after witness took the stand in a Centre County courtroom and gave consistent and compelling accounts of sex abuse suffered at Jerry Sandusky's hands.

With the former coach scheduled to begin his defense Monday, how can he persuade a jury to discount that onslaught of evidence? He has to testify, veteran trial lawyers said.

"He's sat in that courtroom and listened to the most horrific things someone could say about anyone," said Edward D. Ohlbaum, a professor at Temple University's law school and a former public defender. "His only chance is to look that jury in the eye and say, 'I would never, ever, ever do something like this.' "

No greater dilemma exists for a defense attorney than the whether to call his or her client to the stand, he said.

Allowing a defendant to talk directly to jurors is fraught with risks. He could get flustered, come off poorly, or crumble under cross-examination.

But mountains of damage can be undone by the right client - one who can present a believable and convincing explanation to prosecutors' claims.

In Sandusky's case, it may be his only hope, said Jeffrey M. Lindy, a former prosecutor who has handled child sex-abuse cases and now defends clients accused of such crimes.

Lindy is currently defending Msgr. William J. Lynn in the landmark clergy abuse trial in Philadelphia. Lindy put Lynn on the stand in his own defense in the case.

A gag order in that ongoing trial prevented Lindy from discussing the reasoning behind that decision.

Asked about the advisability of Sandusky testifying, he said: "I don't mean to be cynical, but why not? The common feeling out there is that this has been a bloodbath so far. Anything he says can only help, because it can't get much worse."

If statements by Sandusky's lawyer Joseph Amendola offer any indication, it appears he agrees. In his opening remarks to jurors Monday, he conceded that the prosecution had compiled "overwhelming evidence" against his client and made vague promises that jurors would "hear from Jerry later."

Sandusky, 68, has repeatedly denied charges he molested 10 boys over 15 years. Prosecutors allege the former Pennsylvania State University assistant football coach met all his purported victims through the Second Mile, a charity for underprivileged youth he founded in 1977.

Throughout last week, eight accusers offered accounts of molestation with similar elements. Many told of being raped in the basement of Sandusky's State College home. Nearly all claimed he had a habit of placing his hand on their knees and thighs while driving.

And several said he groped them in locker-room showers, prompting Philadelphia lawyer [Tom Kline](#), who represents one of Sandusky's accusers, to quip, **"It's just remarkable how many children one man can shower with."**

In previous interviews, Sandusky has conceded he showered with the boys, often wrestled with them, and frequently invited them to sleep over at his house. He has maintained, however, that none of that was done with sexual intent.

Those efforts to explain himself proved so awkward and, at times, unconvincing, that the interviews have been widely viewed as disastrous.

In fact, prosecutors presented to jurors Wednesday one such effort - a November interview with NBC's Bob Costas - as evidence of his guilt.

Taped days after his arrest, Sandusky responded to a barrage of questions in a haggard monotone and seemed to struggle with the question "Are you sexually attracted to young boys?"

The former coach repeated the question twice before eventually responding: "Sexually attracted? No. I enjoy young people. I enjoy being around them. No, I'm not sexually attracted to young boys."

Asked about that answer in a later New York Times interview, Sandusky repeated the gaffe.

"What in the world was that question?" he said in a video of the interview posted on the newspaper's website. "If I say, 'No, I'm not attracted to boys, that's not the truth,' because I am attracted to young people - boys, girls . . ."

From across the room, his attorney interjected: "Yeah, but not sexually. You're attracted because you enjoy spending time with young people."

Sandusky's performance in those early interviews does not bode well for his possible performance on the witness stand, said veteran defense lawyer Dennis J. Cogan, who represented former State Sen. Vincent J. Fumo in a 2009 corruption trial.

"That was a softball question," he said. "It sounded to me like he was having difficulty processing even that."

But presuming the Costas interview was Sandusky at his worst, anything he says in the courtroom can only be an improvement, Cogan said.

uch, too, has been made of Sandusky's sunny demeanor throughout the run-up to his trial. Often grinning and joking, he has struck many as inconsistent with the gravity of the charges he faces.

Amendola has explained his client's apparent reservoirs of cheer by describing him as "just a big kid at heart." That bearing is part of what has attracted children to his client for years, the lawyer said.

Listed among possible defense witnesses is an expert on histrionic personality disorder, a condition marked by emotional and overly dramatic behavior. (Others listed as possible defense witnesses include Sandusky's wife, Dottie, an adopted son, and Joe Paterno's widow, Sue.)

Nearly all the witnesses who testified against him last week said that when Sandusky was not abusing them they enjoyed spending time in his company whether at Penn State football games, playing air hockey and shuffleboard at his house, or on road trips.

And Sandusky's record through his charity suggests that despite the charges against him, he has helped thousands of children through its foster program, summer camps, and one-on-one mentoring.

If he can convince jurors of that passion for helping children in need and persuade them that actions such as showering with children - while perhaps ill-advised - never crossed a sexual line, he might just have a shot, said Philadelphia defense lawyer Michael J. Engle.

"He's already opened the door with his previous statements," he said. "Now, he might as well walk through it and explain himself."