

T 741910-1

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY  
CRIMINAL TRIAL DIVISION

COMMONWEALTH OF  
PENNSYLVANIA

vs.

WILLIAM H. COSBY JR.

MISC. NO: 3156-15

2016 JAN 11 PM 4:11

CLERK OF COURT  
MONTGOMERY COUNTY  
PA

**PETITION FOR WRIT OF HABEAS CORPUS AND MOTION TO DISQUALIFY THE  
MONTGOMERY COUNTY DISTRICT ATTORNEY'S OFFICE**

Defendant William H. Cosby Jr., by and through his attorneys, brings this Petition for Writ of Habeas Corpus, pursuant to 42 Pa.C.S.A. Sections 6501 et seq., and Pa.R.Crim.P. 108, and Motion to Disqualify the Montgomery County District Attorney's Office, and respectfully requests this Honorable Court to grant an Order dismissing all charges against him after an evidentiary hearing to consider the matters raised herein, or in the alternative an Order disqualifying the Montgomery County District Attorney's Office, and in support thereof states the following.

On December 30, 2015, the District Attorney of Montgomery County charged Mr. Cosby with aggravated indecent assault. The charges violate an express agreement made by the Montgomery County District Attorney in 2005, in which the Commonwealth agreed that Mr. Cosby would never be prosecuted with respect to the allegations of sexual assault made by complainant Andrea Constand. This agreement was made for the express purpose of inducing Mr. Cosby to testify fully in Ms. Constand's civil litigation against him. In reliance on that agreement, Mr. Cosby testified in 2006 without invocation of his Constitutional rights against self-incrimination. Now, to fulfill campaign promises, the newly-elected District Attorney has

repudiated the agreement and has based these criminal charges on the very testimony Mr. Cosby gave in reliance on the Commonwealth's non-prosecution agreement.

The charges should separately be dismissed on due process grounds because the over ten-year delay in bringing these charges was inexcusable and has greatly prejudiced Mr. Cosby, as set forth below.

Finally, if dismissal is not granted, the Court should at a minimum disqualify the District Attorney Kevin Steele and the Montgomery County District Attorney's Office from any further involvement in this prosecution due to the Office's and Mr. Steele's intentional breach of the Commonwealth's non-prosecution agreement, and due to repeated violations of ethical rules—including Mr. Steele's deliberate injection of the allegations against Mr. Cosby into a political campaign through repeated public statements made while serving as First Assistant District Attorney and while directly involved in his office's investigation of the allegations—that served no purpose other than to advance Mr. Steele's political ambitions by inflaming the public against Mr. Cosby.

**WHEREFORE**, the Defendant respectfully requests that this Honorable Court grant this Petition for Writ of Habeas Corpus in this matter after an evidentiary hearing or in the alternative an Order disqualifying the Montgomery County District Attorney's Office.

January 10, 2016

Respectfully submitted,



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MONTGOMERY  
COUNTY  
PENNSYLVANIA

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MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR WRIT OF HABEAS  
CORPUS AND MOTION TO DISQUALIFY

I. INTRODUCTION

*We strongly condemn the conduct of the state's attorney in this case. The awesome power to prosecute ought never to be manipulated for personal or political profit.<sup>1</sup>*

On December 30, 2015, the District Attorney for Montgomery County wrongfully charged defendant William H. Cosby Jr. in direct violation of an express non-prosecution agreement. The Commonwealth made that agreement with Mr. Cosby over ten years ago, when the District Attorney first investigated the allegations and concluded they could not support any charges. The First Assistant District Attorney's use of Mr. Cosby as a political tool in his recent election campaign for District Attorney was wildly improper standing alone. But his office is now abusing the judicial process itself, knowingly repudiating a binding non-prosecution agreement and trampling Mr. Cosby's due process rights for political gain. Immediate habeas relief is necessary to enforce the Commonwealth's agreement with Mr. Cosby. The charges

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<sup>1</sup> *State v. Hohman*, 420 A.2d 852, 855 (Vt. 1980) (disqualifying prosecutor for campaign ad pledging to prosecute defendant, and referring matter to Professional Conduct Board), *overruled on other grounds by Jones v. Shea*, 532 A.2d 571, 572 (1987).

should be dismissed, or at a minimum, the Montgomery County District Attorney's office should be disqualified from any further participation in this prosecution.

There can be no question the Commonwealth entered into a non-prosecution agreement with Mr. Cosby. The Commonwealth, through then-District Attorney Bruce Castor, promised in 2005 that Mr. Cosby would not be charged in connection with these allegations, in exchange for Mr. Cosby giving testimony in the complainant's civil case against him. The express intent of the agreement was to induce Mr. Cosby not to assert his Constitutional rights under the Fifth Amendment, and Mr. Castor reminded the District Attorney's office about that agreement in 2015, before these charges were brought. Nonetheless, the District Attorney proceeded and not only breached the agreement, but in the probable cause affidavit is using the very testimony Mr. Cosby provided in reliance on that agreement *against* him as a basis for the charges. A citizen's Constitutional rights cannot be thwarted by politically motivated prosecutors willing to break agreements made by their predecessors. The Commonwealth's agreement must be enforced, and the charges dismissed.

Even if the Commonwealth had not agreed these charges would not be brought, its inexcusable and prejudicial delays in doing so separately warrant dismissal. Due process prohibits unreasonable delays in making arrests, even if the charges are made at the eleventh hour, arguably before the statute of limitations expires. In the ten years since these allegations were first investigated, Mr. Cosby's attorney—who negotiated the non-prosecution agreement with the District Attorney and could give critical testimony requiring dismissal of the charges—has died; his testimony is lost forever. In addition, Mr. Cosby has lost his eyesight—and with it his ability to identify the physical appearance of witnesses and accusers as well as review other pieces of physical evidence—and his age and the passage of time have substantially impaired his memories of the relevant events and witnesses. In addition to the death of a key witness to the

non-prosecution agreement, other material third-party witnesses are now a decade removed from the events at issue and may no longer be available.

The real reason for the delay and resulting prejudice to Mr. Cosby was of course the non-prosecution agreement, which the District Attorney's office kept until politics and public opinion made it expedient to disregard it. But even setting aside the non-prosecution agreement, there was no legitimate reason for a ten-year delay. In announcing these charges to the press, First Assistant District Attorney Kevin Steele claimed they were the result of "new information," including allegations made by third parties, but—by Mr. Steele's own admission—that is false. On the contrary, just weeks before arresting Mr. Cosby, Mr. Steele claimed during his political campaign that all relevant evidence was available and evaluated in 2005, running a TV commercial claiming that the office "could have used" third party allegations against Mr. Cosby years earlier "but didn't even try." Declaration of Brian McMonagle ("McMonagle Decl."), Ex. D. The probable cause affidavit supporting the charges confirms this, claiming Mr. Cosby's civil deposition led prosecutors to "believe it is likely he gave the drugs to other persons." *Id.*, Ex. G at 17. But that is not new information at all; allegations by other persons were investigated in 2005 when the District Attorney declined to prosecute. Indeed, for support the probable cause affidavit quotes a **2005** deposition that the District Attorney was fully aware had taken place, but never sought to subpoena. The District Attorney's inaction for over a decade, with full knowledge of the civil case and deposition, further evidences the existence of a non-prosecution agreement. Nothing—other than the non-prosecution agreement—prevented the District Attorney from evaluating Mr. Cosby's 2005 deposition or any of the other evidence on which the charges are now based.

The District Attorney's office's unethical, self-promoting breach of its agreement with Mr. Cosby coupled with the denial of due process through the completely avoidable decade-long

delay necessitates dismissal of all charges. However, even if the charges are not dismissed on the above grounds at this stage, the Court should at a minimum disqualify the Montgomery County District Attorney's office from further participation in this prosecution. Under Pennsylvania law, prosecutors are forbidden "from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused" except for statements "necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose." Pa. R. Prof'l Conduct 3.8(e). Violating and ignoring these ethical obligations, the First Assistant District Attorney, Kevin Steele, made Mr. Cosby a centerpiece of his campaign for District Attorney, producing television commercials and promotional materials portraying Mr. Cosby as a "sexual predator" and criticizing his political opponent for failing to prosecute, all in an effort to seize upon and increase public condemnation of Mr. Cosby and urge voters not to elect the District Attorney who had agreed not to prosecute Mr. Cosby. McMonagle Decl, Ex. D. Mr. Steele's improper and unethical campaign tactic was successful—his commercial and disparaging accusations against Mr. Cosby and the former District Attorney garnered extensive national media coverage and significantly increased public animosity toward Mr. Cosby.

Far from "exercis[ing] reasonable care to prevent [Mr. Steele] from making an extrajudicial statement that the prosecutor would be prohibited from making," as required by law, the Montgomery County District Attorney's office did nothing to correct or retract Mr. Steele's inflammatory and prejudicial campaign statements. Instead, the office tacitly endorsed Mr. Steele's repeated public statements designed to inflame the public against Mr. Cosby, implying that it agreed and confirming that it was re-investigating the matter, in violation of the non-prosecution agreement.

Justice requires that the Court dismiss the charges at this stage. But even if not yet persuaded to dismiss, there will be no justice at all unless the Court removes Mr. Steele and the Montgomery County District Attorney's office from the prosecution immediately, prior to the preliminary hearing.

## II. ALLEGATIONS OF FACT

This petition "specifically allege[s] facts, which if true would entitle the defendant to an award of writ of habeas corpus." *Com. v. Lawson*, 650 A.2d 876, 879 (1994). The court accepts the allegations as true to determine whether an evidentiary hearing is warranted. If the petition is dismissed without a hearing, the appellate court will review the lower court's order to determine "if the allegations of the petition are such that a hearing should have been held to allow the petitioner to support his allegations by evidence . . . ." *Balsamo v. Mazurkiewicz*, 417 Pa. Super. 36, 41, 611 A.2d 1250, 1253 (1992).

### A. The Commonwealth's 2005 Agreement of Non-Prosecution with Mr. Cosby

Almost eleven years ago, on February 17, 2005, Montgomery County District Attorney Bruce Castor announced he was declining to file charges in connection with allegations by Andrea Constand that Defendant had "touched her inappropriately" in January of 2004, an allegation she first reported on January 13, 2005. *See* Press Release, Feb. 17, 2005, Declaration of Brian McMonagle ("McMonagle Decl."), Ex. A. District Attorney Castor noted his consideration of all relevant evidence—including "statements from other persons" who had made similar allegations against Defendant—and concluded that while "a conviction under the circumstances of this case would be unattainable," a civil action by Ms. Constand "is possible." *Id.*

In advance of issuing this press release, District Attorney Castor reached an agreement with counsel for Mr. Cosby. The District Attorney intentionally and specifically bound the



Commonwealth that there would be no state prosecution of Mr. Cosby in order to remove from him the ability to claim his Fifth Amendment protection against self-incrimination, thus forcing him to sit for a deposition under oath in a civil case. Although Mr. Cosby's then-counsel is since deceased, then-District Attorney Bruce Castor has confirmed he entered into this agreement on behalf of the Commonwealth. Mr. Cosby is prepared to offer Mr. Castor's testimony at an evidentiary hearing on this petition. Mr. Castor will also confirm that it was the specific intent of all parties involved, including the Commonwealth and Mr. Cosby's counsel, that Mr. Cosby's testimony in the civil case—and any other evidence derived from it—would not be used in any criminal prosecution against him by the Commonwealth. The District Attorney intended to, and did, bind the Commonwealth to this agreement of non-prosecution.

Three weeks after this agreement and press release, Ms. Constand filed a civil suit against Mr. Cosby, based on the same allegations. *See* Constand Complaint, McMonagle Decl., Ex. B. Relying on the Commonwealth's promise not to prosecute him, Mr. Cosby testified fully in Ms. Constand's civil case, without invocation of his Constitutional right against self-incrimination.

**B. The First Assistant District Attorney Repudiates the Commonwealth's Agreement and Publicly Condemns Mr. Cosby for Political Gain**

In his 2005 press release, the District Attorney expressly stated he would not “expound publicly” on the investigation “for fear that his opinions and analysis might be given undue weight by jurors in any contemplated civil action.” McMonagle Decl., Ex. A at 2. For years, this appropriate restriction on prosecutors' public discussion of the matter remained in place. That changed in 2015, during the regular election for Montgomery County District Attorney. Trailing in the polls, on October 21, 2015—less than two weeks before election day—First Assistant District Attorney Kevin Steele launched what he called “a crucial new phase of his campaign,” consisting of TV ads, public statements, and flyers lambasting “his opponent's

failure to prosecute Bill Cosby.” *McMonagle Decl.*, Ex. C at 4; *see also id.*, Exs. D & E.<sup>2</sup> In these public statements, Mr. Steele accused Mr. Cosby of being a “sexual predator,” and asserting the office “didn’t even try” to use the testimony of third party witnesses. *Id.*, Ex. D. Mr. Steele’s statements made no mention of the Commonwealth’s non-prosecution agreement, and instead suggested he would prosecute Cosby if elected as District Attorney. *Id.*

Although Pennsylvania ethical rules clearly prohibit such public statements by prosecutors, the Montgomery County District Attorney’s Office did nothing to stop Mr. Steele’s improper use of Mr. Cosby as a tool for political gain. On the contrary, the office tacitly endorsed Mr. Steele’s inflammatory accusations, stating in response to media inquiries that old decisions of non-prosecution are being re-evaluated, again making no mention of the Commonwealth’s non-prosecution agreement with Mr. Cosby. *Id.*, Ex. F at 4.

On the heels of his widely publicized accusations against Mr. Cosby, Mr. Steele narrowly won election as District Attorney.

**C. The Prejudice Caused by the Commonwealth’s Breach of Its Agreement and Inexcusable Delay**

In the nearly 11 years since Mr. Castor closed the investigation of these events and promised not to prosecute, key evidence has been forever lost. Mr. Cosby’s attorney who negotiated the non-prosecution agreement is now deceased; his testimony and contemporaneous documents are lost forever and Mr. Cosby will be forced to prove the existence of this agreement without this critical, potentially dispositive evidence. Notably, the Montgomery County District

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<sup>2</sup> As of January 10, 2016, Mr. Steele’s TV commercial is available at <https://www.youtube.com/watch?v=upjxu5hlBQg>.

Attorney's Office appears to have re-opened its investigation shortly after the February 7, 2015 death of Mr. Cosby's attorney, a well-known former federal prosecutor and defense attorney.<sup>3</sup>

Loss of this evidence alone would be sufficient, but Mr. Cosby has suffered many other prejudices due to delay as well. Mr. Cosby has lost his eyesight, hampering his ability to identify the physical appearance of witnesses, to view documents, photographs and videos, and thus is limited and in many instances incapable of working with attorneys in preparation of his own defense as well as hindered in his ability to confront evidence offered against him by the District Attorney's Office. Moreover, Mr. Cosby's advancing age and the passage of time have substantially impacted his ability to recall key events and witnesses. In addition, other material witnesses are now twelve years removed from the events at issue. The delays have seriously prejudiced Mr. Cosby's defense against the charges.

### **III. ARGUMENT**

#### **A. Legal Standard**

"[A]n application for habeas corpus to inquire into the cause of detention may be brought by or on behalf of any person restrained of his liberty within this Commonwealth under any pretense whatsoever." 42 Pa.C.S.A. § 6503(a); *see also* 42 Pa.C.S.A. § 6502(a) ("Any judge of a court of record may issue the writ of habeas corpus to inquire into the cause of detention of any person or any other lawful purpose."). This includes, as here, a pre-trial petition in advance of a preliminary hearing. *See, e.g., Com. ex rel. Levine v. Fair*, 394 Pa. 262, 146 A.2d 834 (1958) (finding habeas corpus petition filed in advance of preliminary hearing was proper and stating "[i]t is true . . . that the usual criminal procedure, after an arrest has been effected, is for the court not to interfere until the arresting magistrate has conducted a preliminary hearing to determine if

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<sup>3</sup> Mr. Cosby's former attorney's death received considerable local media coverage including: [http://articles.philly.com/2015-02-10/news/58972422\\_1\\_prosecutor-marimow-clark-jr](http://articles.philly.com/2015-02-10/news/58972422_1_prosecutor-marimow-clark-jr). *See* McMonagle Decl., Ex. H.

a prima facie case has been produced against the defendant. This is indeed the normal practice as it is the normal routine for one to leave his home through the door, but it can happen, as in the case of fire, when the householder may find it wiser and more expedient to depart via the window”). That Mr. Cosby has been released on bond does not preclude him from seeking habeas relief. *See Commonwealth v. Hess*, 489 Pa. 580, 587, 414 A.2d 1043, 1046-47 (1980) (“The restraints on an accused bound over for court and released on bail are sufficient to satisfy the custody requirement of a habeas corpus petition.”).

In response to a habeas petition, the Commonwealth has the burden of establishing a prima facie case, offering some proof to establish each material element of the offense as charged. *Commonwealth v. Owen*, 397 Pa. Super. 507, 512, 580 A.2d 412, 415 (1990) (affirming grant of pre-trial habeas petition). Evidence sufficient “to justify a trial judge submitting the case to the jury at the trial of the case, is required.” *Id.* at 414 (quoting *Commonwealth v. Snyder*, 335 Pa. Super. 19, 23-24, 483 A.2d 933, 935 (1984)). A pre-trial petition for a writ of habeas corpus thus is similar in purpose to a preliminary hearing, the primary purpose of which “is to protect an individual’s right against unlawful arrest and detention.” *Id.* (quoting *Commonwealth v. Morman*, 373 Pa. Super. 360, 365, 541 A.2d 356, 359 (1988)).

The decision to dismiss charges “is within the sound discretion of the trial judge and will be reversed on appeal only where there has been a clear abuse of discretion.” *Commonwealth v. Niemetz*, 282 Pa. Super. 431, 439, 422 A.2d 1369, 1373 (1980). An abuse of discretion has been defined as not merely an error of judgment, but if in reaching a conclusion the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable or the result of partiality, prejudice, bias, or ill-will as shown by the evidence or the record, discretion is abused.

*Commonwealth v. Kocher*, 529 Pa. 303, 306, 602 A.2d 1308, 1310 (1992) (quoting *Commonwealth v. Moyer*, 497 Pa. 643, 647, 444 A.2d 101, 103 (1982)).

**B. The Charges Against Mr. Cosby Must Be Dismissed Because They Violate The Commonwealth's Express Agreement of Non-Prosecution**

Like plea agreements, non-prosecution agreements are enforceable, binding against the Commonwealth, and must be strictly enforced, “[b]ecause the integrity of the judicial system demands that the Commonwealth live up to its obligation.” *Commonwealth v. Ginn*, 402 Pa. Super. 405, 410, 587 A.2d 314, 316-17 (1991) (affirming trial court’s dismissal of charges based on enforcement of promise made by district attorney). Although it arises in a criminal context, the agreement between the prosecutor and the accused is “contractual in nature and is to be analyzed under contract law standards.” *Commonwealth v. Hainesworth*, 82 A.3d 444, 449 (2013) (quoting *Commonwealth v. Kroh*, 440 Pa. Super. 1, 9, 654 A.2d 1168, 1172 (1995) (affirming specific enforcement of plea agreement)). Ambiguities in such agreements “will be construed against the [Commonwealth].” *Id.* (quoting *Kroh*, 654 A.2d at 1172).

While perhaps helpful for election season, the current district attorney’s repudiation of his predecessor’s non-prosecution agreement is immaterial in court—“What one assistant district attorney has agreed to binds another assistant district attorney.” *Commonwealth v. Burton*, 54 Pa. D. & C.2d 264, 270-71 (1971). Indeed, the Third Circuit has granted federal habeas relief where Pennsylvania prosecutors have attempted to renege on oral agreements with defendants. *See Dunn v. Colleran*, 247 F.3d 450, 461 (3d Cir. 2001) (recognizing that such agreements must be enforced because “a defendant voluntarily and knowingly surrenders a plethora of constitutional rights in exchange for a commitment by the prosecutor to do or not do certain things” and “[w]hen the prosecutor breaches that agreement, he or she violates the defendant’s due process rights”).

There is no question such an agreement was reached here. Although Mr. Cosby's lawyer who negotiated the agreement is deceased, the District Attorney who entered into the agreement on the Commonwealth's behalf has confirmed the terms of the agreement and the parties' meeting of the minds. As discussed above, Mr. Cosby intends to present his testimony at an evidentiary hearing on this motion, which will establish the essential terms of the agreement. There is also no question the current prosecutors are fully aware of this agreement, but are simply choosing to ignore it. Both the current District Attorney and the District Attorney-elect were in the office in 2005 when the agreement was reached, and Mr. Castor reminded the office of the agreement in 2015 after Mr. Steele began making public statements suggesting Mr. Cosby could still be prosecuted.

Nothing further is required to establish the terms of the agreement, and the remedy of specific performance in the form of dismissal is appropriate. *See Ginn*, 587 A.2d at 316-17 (affirming trial court's dismissal of charges based on enforcement of promise made by district attorney).<sup>4</sup>

**C. The Charges Against Mr. Cosby Must Be Dismissed Because The Commonwealth's Unreasonable Delay Violates Due Process**

Regardless of whether charges are brought within the applicable statute of limitations, unreasonable delay in bringing charges against a defendant violates due process rights guaranteed under both the Pennsylvania Constitution and the Fourteenth Amendment of the

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<sup>4</sup> Even where a non-prosecution agreement is unenforceable—here it is clearly enforceable because it was entered into by the District Attorney—the Supreme Court has ruled any evidence flowing from defendant's reliance on such an agreement must be suppressed. *Commonwealth v. Stipetich*, 539 Pa. 428, 431-32, 652 A.2d 1294, 1296 (1995) (ordering suppression of evidence to put the defendants "in the same position as if the unauthorized promise not to prosecute had never been made by the police"); *see also People v. Gallego*, 430 Mich. 443, 458, 424 N.W.2d 470, 476 (1988) (where police entered an unauthorized agreement not to prosecute, appropriate remedy was suppression of evidence obtained thereby).

United States Constitution. *Snyder*, 713 A.2d at 605. These rights “protect[] defendants from having to defend stale charges, and criminal charges should be dismissed if improper pre-arrest delay causes prejudice to the defendant’s right to a fair trial.” *Id.* at 599-600. The Supreme Court of Pennsylvania adopted a two-prong test to evaluate a claim of undue delay: if (1) there is actual prejudice to the defendant, and (2) no proper reason for postponing the defendant’s arrest, then “the due process clauses of the Constitutions of the United States and Pennsylvania require that the charges be dismissed.” *Id.* at 605. Here, both prongs are clearly met.

*First*, Mr. Cosby has suffered substantial actual prejudice due to the Commonwealth’s delay. His lawyer who negotiated the non-prosecution agreement is since deceased. McMonagle Decl. ¶ 2. That attorney—Mr. Walter M. Phillips Jr.—negotiated the non-prosecution agreement prohibiting this very prosecution. His testimony is lost forever and Mr. Cosby will be forced to prove the existence of this agreement without this critical, potentially dispositive evidence. Loss of this evidence alone would be sufficient to meet the prejudice requirement, but Mr. Cosby has suffered many other prejudices to due delay as well. Mr. Cosby has lost his eyesight, substantially hampering his ability to identify the physical appearance of witnesses or to view documents and work with attorneys. Moreover, Mr. Cosby’s advancing age and the passage of time have substantially impacted his ability to recall key events and witnesses. Memories have faded by twelve years and, coupled with his loss of sight, impede his defense against accusations by accusers who claim to have met him previously but whom he cannot now recognize or identify. Moreover, many of the relevant witnesses may now be unavailable.

*Second*, there is plainly no legitimate reason for the Commonwealth’s delay. During his election campaign, Mr. Steele argued repeatedly that there was *no reason at all* for the Commonwealth’s choice not to charge Mr. Cosby in 2005, claiming in a TV commercial that all material evidence was equally available when then-District Attorney Bruce Castor chose not to

bring charges in 2005. *See* McMonagle Decl., Ex. D. Where prejudice exists and a reasonable basis for the Commonwealth's 11-year delay does not exist, the charges must be dismissed. *See, e.g., United States v. Morrison*, 518 F. Supp. 917, 918 (S.D.N.Y. 1981) (dismissing based on delay of six months); *United States v. Sabath*, 990 F. Supp. 1007, 1008 (N.D. Ill. 1998) (four year delay); *United States v. Santiago*, 987 F. Supp. 2d 465, 484 (S.D.N.Y. 2013) (five years); *State v. Whitlow*, 326 P.3d 607, 612 (Or. Ct. App. 2014) (less than five years); *United States v. Barket*, 530 F.2d 189, 193 (8th Cir. 1976) (less than four years); *United States v. Sample*, 565 F. Supp. 1166, 1185-86 (E.D. Va. 1983) (less than six years); *United States v. Alderman*, 423 F. Supp. 847, 855 (D. Md. 1976) (less than three years).

**D. Alternatively, The Montgomery County District Attorney's Office and Mr. Steele Should Be Disqualified**

Kevin Steele's misconduct during his election campaign—and the complicity of the Montgomery County District Attorney's office—require disqualification of the entire office, including Mr. Steele. A “prosecution is barred when an actual conflict of interest affecting the prosecutor exists in the case; under such circumstances a defendant need not prove actual prejudice in order to require that the conflict be removed.” *Commonwealth v. Eskridge*, 529 Pa. 387, 392, 604 A.2d 700, 702 (1992). A prosecutor may also be disqualified for having a “non-economic, personal interest in the outcome of the prosecution.” *Commonwealth v. Stafford*, 749 A.2d 489, 494 (2000). If the conflict affects the entire District Attorney's office, the matter should be referred elsewhere, or dismissed. *See, e.g., Stafford*, 749 A.2d at 493-94 (discussing referral to the Attorney General of matter in which district attorney's office was potentially disqualified).

Pennsylvania courts have repeatedly condemned prosecutors' improper public statements concerning a defendant, and found such statements sufficient to warrant disqualification. *See,*



e.g., *Commonwealth v. Theodore Brooks, Lulu McNeal, Valentino Birchett, Earl Christy*, 1 Phila. Co. Rptr. 440, 442 (Pa. Com. Pl. 1978) (disqualifying district attorney from further involvement in case after he “issued a news release and went on the radio to say that the court had been too lenient”); *see also id.* at 460 (“We are of the opinion that the District Attorney’s conduct certainly violates the spirit of canon 7; and, more significantly, it trespasses upon a defendant’s right to appear before a court uninfluenced by the extrajudicial conduct of the lawyer (District Attorney) who appears or may appear against him on behalf of the Commonwealth.”).

In a case strikingly similar to this one, the Vermont Supreme Court disqualified a prosecutor and referred the matter to the state’s Professional Conduct Board. *State v. Hohman*, 138 Vt. 502, 504, 420 A.2d 852, 854-55 (1980), *overruled on other grounds by Jones v. Shea*, 148 Vt. 307, 532 A.2d 571 (1987). In *Hohman*, “the state’s attorney found himself in a battle for re-election” and ran an advertisement in a newspaper. *Id.* at 854. The ad stated that the defendant had previously been convicted, that the conviction had been overturned, and that, “if I am re-elected, I will vigorously prosecute Hohman and obtain a second conviction.” *Id.* Based on those statements alone, the Court “strongly condemn[ed] the conduct of the state’s attorney in this case,” noting that the “power to prosecute ought never to be manipulated for personal or political gain.” *Id.* at 855. The Court reversed the trial court’s denial of disqualification, and held that “because serious questions exist as to the ethical propriety of the state’s attorney’s conduct, we will refer this matter to the Professional Conduct Board.” *Id.* The statements at issue in *Hohman* were far less inflammatory, and far more isolated, than Mr. Steele’s statements.

Here, the newly-elected District Attorney has repeatedly made public statements violating the Pennsylvania Rules of Professional Conduct and has infringed on Mr. Cosby’s right to a fair trial. During his recent campaign, Mr. Steele used TV ads, public statements, and flyers referring to Mr. Cosby as a “sexual predator” and lambasting “his opponent’s failure to prosecute

Bill Cosby.” McMonagle Decl., Ex. C at 4. In these public statements, Mr. Steele asserted the office “didn’t even try” to use the testimony of third party witnesses and that the failure to prosecute Mr. Cosby was tantamount to “not looking out for the victims.” *Id.*, Ex. D. Mr. Steele’s statements made no mention of the Commonwealth’s non-prosecution agreement, and instead suggested he would prosecute Cosby if elected as District Attorney. *Id.* The Montgomery County District Attorney’s Office did nothing to stop Mr. Steele’s statements. On the contrary, the office suggested that old decisions of non-prosecution are being re-evaluated, again making no mention of the Commonwealth’s non-prosecution agreement with Mr. Cosby. *Id.*, Ex. F at 4.

These statements—made by the *sitting* First Assistant District Attorney and condoned by the entire office—plainly violated Pennsylvania Rule of Professional Conduct 3.8 (“Special Responsibilities of Prosecutors”). The statute requires that the “prosecutor in a criminal case shall . . . refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.” Here of course, the express *purpose* of Mr. Steele’s campaign statement was to increase public condemnation of Mr. Cosby and, by extension, Mr. Steele’s political opponent. In addition, the district attorney’s office was obligated to “exercise reasonable care” to prevent Mr. Steele from making these improper statements. Pa. R. Prof’l Conduct 3.8(e). It failed to do so, and instead encouraged him and fanned the flames by implicitly disclosing that it was re-opening an investigation of Mr. Cosby. McMonagle Decl., Ex. F.

“A prosecutor has the responsibility of a minister of justice and not simply that of an advocate.” Pa. R. Prof. Conduct 3.8, Explanatory Comment. Mr. Steele’s repeated violations of this duty were willful and inexcusable, and worse, were tacitly condoned by the district attorney’s office in Montgomery County. Further, the misconduct has inflamed the public

against Mr. Cosby, both within this district and throughout the country. Mr. Steele and the office should be disqualified.

### **III. CONCLUSION**

For the reasons set forth above, the defendant respectfully requests that the Court grant this Petition and dismiss all charges following an evidentiary hearing on these matters. In the alternative, the defendant requests the Court disqualify Mr. Steele and the Montgomery County District Attorney's office from continued involvement in this prosecution.

January 10, 2016

Respectfully Submitted,



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***Attorneys for Defendant***

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY  
CRIMINAL TRIAL DIVISION

COMMONWEALTH OF  
PENNSYLVANIA

vs.

WILLIAM H. COSBY JR.

NO.

MD 3156-15

2016 JAN 11 PM 4:12

CLERK OF COURT  
MONTGOMERY COUNTY  
PENNSYLVANIA

DECLARATION OF BRIAN J. MCMONAGLE


I, Brian J. McMonagle, declare as follows:

1. I am a member of the bar of the Commonwealth of Pennsylvania. I am a partner at the law firm McMonagle, Perri, McHugh & Mischak. I make this declaration of personal, firsthand knowledge and, if called and sworn as a witness, I could and would testify competently to the facts set forth in this declaration.
2. I am currently representing William H. Cosby Jr. in connection with the criminal charges that have been filed against him by the Montgomery County District Attorney's Office based on the allegations of Andrea Constand.
3. Attached hereto as Exhibit A is a true and correct copy of a press release that was issued by the Montgomery County District Attorney's Office on February 17, 2005.
4. Attached hereto as Exhibit B is a true and correct copy of the complaint filed by Andrea Constand in *Andrea Constand v. William H. Cosby*, No. 05-CV-1099, filed on March 8, 2005 in the United States District Court of the Eastern District of Pennsylvania.
5. Attached hereto as Exhibit C is a true and correct copy of a page from the "Kevin R. Steele for District Attorney" website that was retrieved on January 6, 2016 using Google search engine.

6. Exhibit D to this declaration is a true and correct copy of Kevin Steele's campaign ad, "Tough," which was released in October 2015. As of January 10, 2016, Mr. Steele's TV commercial is available at <https://www.youtube.com/watch?v=upjxu5hlBQg>.
7. Attached hereto as Exhibit E is a true and correct copy of an article from *People* magazine, titled "New Campaign Ad Criticizes Pennsylvania Prosecutor for How He Handled the Bill Cosby Case in 2005," published on October 20, 2015. As of January 10, 2016, the article is available at <http://www.people.com/article/bill-cosby-bruce-castor-kevin-steele-district-attorney-race>.
8. Attached hereto as Exhibit F is a true and correct copy of an article from *People* magazine, titled "Pennsylvania District Attorney Candidates Battle it Out Over the 2005 Bill Cosby Sexual Assault Allegations," published on October 22, 2015. As of January 10, 2016, the article is available at <http://www.people.com/article/kevin-steele-bruce-castor-andrea-constand-bill-cosby>.
9. Attached hereto as Exhibit G is a true and correct copy of the criminal complaint filed in *Commonwealth v. William H. Cosby Jr.* on December 30, 2015 by the Montgomery County District Attorney's Office.
10. I understand that in 2005, attorney Walter M. Phillips represented Mr. Cosby in connection with the criminal investigation of allegations made against Mr. Cosby by Andrea Constand. Mr. Phillips is now deceased. Attached hereto as Exhibit H is a true and correct copy of an article from the Philadelphia Inquirer regarding the death of Mr. Phillips. As of January 10, 2016, the article is available at [http://articles.philly.com/2015-02-10/news/58972422\\_1\\_prosecutor-marimow-clark-jr](http://articles.philly.com/2015-02-10/news/58972422_1_prosecutor-marimow-clark-jr).

11. I declare under penalty of perjury under the laws of the Commonwealth of Pennsylvania that the foregoing is true and correct to the best of my knowledge.

Executed this 11 day of January, 2016, at Phar, Pennsylvania.

  
\_\_\_\_\_  
Brian J. McMonagle

**CERTIFICATE OF SERVICE**

I, BRIAN J. MCMONAGLE, Esquire, hereby certify that I have served a true and correct copy of the foregoing Motion on the following parties:

**Honorable William J. Furber, Jr., President Judge  
Montgomery County Courthouse  
P.O. Box 311  
Norristown, PA 19404-0311**

**And**

**Honorable Elizabeth A. McHugh  
7804 Montgomery Avenue  
Station Mews  
Elkins Park, PA 19027**

**And**

**Kevin Steele, District Attorney  
Montgomery County District Attorney's Office  
Courthouse, Fourth Floor  
P.O. Box 311  
Norristown, PA 19404-0311**

BY THE COURT:

A handwritten signature in blue ink, appearing to be 'B. McMonagle', written over a horizontal line.

BRIAN J. MCMONAGLE, ESQUIRE  
Attorney for Defendant  
William H. Cosby, Jr.

DATED: 1/11/2016





## **PRESS RELEASE**

***For Immediate Release***

**February 17, 2005**

Montgomery County District Attorney Bruce L. Castor, Jr. has announced that a joint investigation by his office and the Cheltenham Township Police Department into allegations against actor and comic Bill Cosby is concluded. Cosby maintains a residence in Cheltenham Township, Montgomery County.

A 31 year old female, a former employee of the Athletic Department of Temple University complained to detectives that Cosby touched her inappropriately during a visit to his home in January of 2004. The woman reported the allegation to police in her native Canada on January 13, 2005. Canadian authorities, in turn, referred the complaint to Philadelphia Police. Philadelphia forwarded the complaint to Cheltenham Police. The District Attorney's Office became involved at the request of Cheltenham Chief of Police John Norris.

Everyone involved in this matter cooperated with investigators including the complainant and Mr. Cosby. This level of cooperation has helped the investigation proceed smoothly and efficiently. The District Attorney commends all parties for their assistance.

The District Attorney has reviewed the statements of the parties involved, those of all witnesses who might have first hand knowledge of the alleged incident including family, friends and co-workers of the complainant, and professional acquaintances and employees of Mr. Cosby. Detectives searched Mr. Cosby's Cheltenham home for potential evidence. Investigators further provided District Attorney Castor with phone records and other items that might have evidentiary value. Lastly, the District Attorney reviewed statements from other persons claiming that Mr. Cosby behaved inappropriately with them on prior occasions.

However, the detectives could find no instance in Mr. Cosby's past where anyone complained to law enforcement of conduct, which would constitute a criminal offense.

After reviewing the above and consulting with County and Cheltenham detectives, the District Attorney finds insufficient, credible, and admissible evidence exists upon which any charge against Mr. Cosby could be sustained beyond a reasonable doubt. In making this finding, the District Attorney has analyzed the facts in relation to the elements of any applicable offenses, including whether Mr. Cosby possessed the requisite criminal intent. In addition, District Attorney Castor applied the Rules of Evidence governing whether or not evidence is admissible. Evidence may be inadmissible if it is too remote in time to be considered legally relevant or if it was illegally obtained pursuant to Pennsylvania law. After this analysis, the District Attorney concludes that a conviction under the circumstances of this case would be unattainable. As such, District Attorney Castor declines to authorize the filing of criminal charges in connection with this matter.

Because a civil action with a much lower standard of proof is possible, the District Attorney renders no opinion concerning the credibility of any party involved so as not to contribute to the publicity, and taint prospective jurors. The District Attorney does not intend to expound publicly on the details of his decision for fear that his opinions and analysis might be given undue weight by jurors in any contemplated civil action. District Attorney Castor cautions all parties to this matter that he will reconsider this decision should the need arise. Much exists in this investigation that could be used (by others) to portray persons on both sides of the issue in a less than flattering light. The District Attorney encourages the parties to resolve their dispute from this point forward with a minimum of rhetoric.

Approved for release:

---

Bruce L. Castor, Jr.  
District Attorney

Thursday, February 17, 2005 5:45PM

**Media Advisory**

Montgomery County District Attorney Bruce L. Castor, Jr. directs persons interested in the **Cosby** matter to the DA's Office website for a press release. [www.montcopa.org/da](http://www.montcopa.org/da).



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANDREA CONSTAND,	:	
Plaintiff	:	CIVIL ACTION
	:	
v.	:	NO. 05-CV-
	:	
WILLIAM H. COSBY, JR.,	:	<u>JURY TRIAL DEMANDED</u>
Defendant	:	

**COMPLAINT**

Plaintiff Andrea Constand, by her attorneys,  
Troiani/Kivitz, L.L.P., claims of Defendant a sum in excess of  
\$150,000.00, and in support thereof states the following:

**A. Jurisdiction and Venue**

1. The United States District Court for the Eastern  
District of Pennsylvania has jurisdiction over this action  
pursuant to diversity of citizenship and amount in  
controversy, 28 U.S.C. § 1332.

2. Venue lies in the Eastern District of Pennsylvania  
pursuant to 28 U.S.C. § 1391 in that the events giving rise to  
the claim occurred in the Eastern District of Pennsylvania.

**B. The Parties**

3. Plaintiff Andrea Constand is an adult individual currently residing at a confidential address in Pickering, Ontario.

4. Defendant William H. Cosby, Jr. is an adult individual with a residence at 8210 New Second Street, Cheltenham, Pennsylvania.

**C. Factual Background**

5. Plaintiff incorporates by reference the prior paragraphs of this Complaint, as though fully set forth at length.

6. On or about December 2001, Plaintiff was employed at Temple University as Director of Operations for the Women's Basketball program. In her capacity as such, Plaintiff met Defendant Cosby in November 2002.

7. Defendant fostered a friendship with Plaintiff, so that over time she considered him to be both her friend, albeit older, and a mentor.

8. For over one (1) year, Plaintiff socialized with Defendant Cosby, including, *inter alia*, discussing Temple women's basketball with him, talking with him by telephone, and being his guest at dinner parties and other events hosted by him at his Cheltenham home and other locations.

9. In January 2004, Defendant invited Plaintiff to his 8210 New Second Street, Cheltenham, Montgomery County, Pennsylvania, home, telling her that he wanted to offer her assistance in her pursuit of a different career.

10. Plaintiff agreed to meet him, and arrived at Defendant's home at approximately 9:00 p.m.

11. Plaintiff and Defendant conversed, and during their conversation, Plaintiff expressed that she was feeling stressed about making her career decision.

12. Defendant then offered Plaintiff three blue pills, which he told her were herbal medication, which would help her relax.

13. Plaintiff questioned if she needed to take all three pills, and Defendant assured her that all three pills were necessary.

14. Plaintiff ingested the pills with bottled water, believing that the pills were what Defendant represented them to be.

15. Within a short period of time, Plaintiff's knees began to shake, her limbs felt immobile, she felt dizzy and weak, and she began to feel only barely conscious.

16. Upon information and belief, Defendant provided Plaintiff with some sort of narcotic or other type of drug, and not an "herbal" remedy.

17. When Plaintiff advised Defendant she did not feel well, Defendant led Plaintiff to a sofa, because she could not walk on her own, where he laid her down, under the guise of "helping" her.

18. Subsequently, Defendant positioned himself behind Plaintiff on the sofa, touched her breasts and vaginal area, rubbed his penis against her hand, and digitally penetrated her.

19. Plaintiff remained in a semi-conscious state throughout the time of this ordeal.

20. At no time was Plaintiff capable of consent after the pills affected her, and at no time did she consent to Defendant's acts.

21. Plaintiff lost consciousness after the events described above, and did not fully awaken until sometime after 4:00 a.m.

22. Plaintiff awoke feeling raw in and around her vaginal area.

23. When Plaintiff awoke, her clothes and undergarments were in disarray.

24. After Plaintiff awoke, Defendant greeted her in his bathrobe.

25. Plaintiff left Defendant's residence by herself.

26. On January 13, 2005, Plaintiff reported Defendant's actions to the Durham, Ontario police.



27. Following Plaintiff's January 13, 2005, police report, Defendant and his authorized representatives and/or agents have made publicized statements to the media, including, Celebrity Justice ("CJ"), which have included:

Sources connected with Bill Cosby tell "CJ" that before his accuser went to police, her mother asked the comedian to make things right with money....We're told she asked Cosby to help pay for her daughter's education and to generally help her out financially, and this conversation occurred before the accuser ever contacted police....As police continue to investigate, a Cosby rep call [sic] this a classic shakedown.

These particular statements were broadcast nationwide, and posted on Celebrity Justice's internet website, also available nationwide, on February 7, 2005.

28. Celebrity Justice, The Toronto Sun, and FoxNews, among other media sources, had previously printed and/or aired Plaintiff's name and address and/or picture in connection with this investigation, and other media sources had published her name and/or a picture of Plaintiff as well, therefore making her identity as Cosby's accuser recognizable to the public.

29. On or about February 21, 2005, Defendant gave an "exclusive" interview to The Enquirer, a national tabloid with a circulation of about 1.5 million, concerning Plaintiff's allegations. In that interview, in an effort to continue to make the public believe that Plaintiff was guilty of extortion,

Defendant said, "I am not going to give in to people who try to exploit me because of my celebrity status."

30. At the time that Defendant and/or his authorized representatives and/or agents, servants, or employees made their statements to Celebrity Justice and The Enquirer, each of them knew or should have known that the statements were false, because **following** Plaintiff's report of the incident to the Durham police, and beginning on or about January 16, 2005, and continuing in the days thereafter, Defendant and/or his representatives and agents placed at least four telephone calls to Plaintiff and her mother in which, among other things, Defendant apologized and offered financial compensation to Plaintiff, which offer was not accepted by Plaintiff and/or her mother.

COUNT I  
Andrea Constand v. William Cosby  
Battery

31. Plaintiff hereby incorporates by reference the prior paragraphs of this Complaint as though fully set forth at length.

32. Defendant's offensive or harmful contact with Plaintiff as set forth herein at length constituted a battery upon her.

33. The aforesaid conduct by Defendant was committed willfully, knowingly, maliciously, intentionally, wantonly, recklessly, and/or negligently.

34. As the direct and proximate result of Defendant's acts as described in the foregoing paragraphs of this Complaint, Plaintiff has suffered serious and debilitating injuries, mental anguish, humiliation, embarrassment, physical and emotional upset, including, but not limited to, post-traumatic stress disorder, depression, sleeplessness, isolation, flashbacks, anxiety, the full extent of which injuries are not yet known, and some or all of which may be permanent in nature.

35. As the direct and proximate result of the Defendant's acts as described in the foregoing paragraphs of this Complaint, Plaintiff suffered and will in the future continue to suffer serious pain, mental anguish, emotional upset, and the loss of enjoyment of life's pleasures.

36. As the direct and proximate result of the Defendant's acts as described in the foregoing paragraphs of this Complaint, Plaintiff sustained a setback and loss of continuity in her education, the full extent of which is not yet known.

37. As the direct and proximate result of the Defendant's acts as described in the foregoing paragraphs of this Complaint, Plaintiff has sustained a loss of earnings and earning capacity.

38. As the direct and proximate result of the Defendant's acts as described in the foregoing paragraphs of this Complaint, Plaintiff has in the past and will in the future continue to be compelled to expend large sums of money for psychological treatment and therapy.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against Defendant William Cosby, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus reasonable attorneys' fees, interest, costs, punitive damages, and such other relief as the Court deems just and proper.

**COUNT II**  
**Andrea Constand v. William Cosby**  
**Assault**

39. Plaintiff hereby incorporates by reference the prior paragraphs of this Complaint as though fully set forth at length.

40. Defendant's harmful or offensive contact with Plaintiff as set forth herein at length, placed her in imminent apprehension of such contact, and constituted an assault upon her.

41. The aforesaid conduct by Defendant was committed willfully, knowingly, maliciously, intentionally, wantonly, recklessly, and/or negligently.

42. As the direct and proximate result of Defendant's acts described in the foregoing paragraphs of this Complaint, Plaintiff has suffered serious and debilitating injuries, mental anguish, humiliation, embarrassment, physical and emotional upset, including, but not limited to, post-traumatic stress disorder, depression, sleeplessness, isolation, flashbacks, anxiety, the full extent of which injuries are not yet known and some or all of which may be permanent in nature.

43. As the direct and proximate result of Defendant's acts described in the foregoing paragraphs of this Complaint, Plaintiff suffered and will in the future continue to suffer serious pain, mental anguish, emotional upset, and the loss of enjoyment of life's pleasures.

44. As the direct and proximate result of Defendant's acts described in the foregoing paragraphs of this Complaint, Plaintiff sustained a setback and loss of continuity in her education, the full extent of which is not yet known.

45. As the direct and proximate result of Defendant's acts described in the foregoing paragraphs of this Complaint, Plaintiff has sustained a loss of earnings and earning capacity.

46. As the direct and proximate result of Defendant's acts described in the foregoing paragraphs of this Complaint, Plaintiff has in the past and will in the future continue to be

compelled to expend large sums of money for psychological treatment and therapy.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against Defendant William Cosby, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus attorneys' fees, interest, costs, punitive damages, and such other additional relief as this Court deems just and proper.

**COUNT III**  
**Andrea Constand v. William Cosby**  
**Intentional and Negligent Infliction of Emotional Distress**

47. Plaintiff hereby incorporates by reference the prior paragraphs of this Complaint as though fully set forth at length.

48. Defendant's conduct, as set forth in the foregoing paragraphs of this Complaint, was so outrageous in character and so extreme in degree as to fall outside the bounds of decency, and is to be regarded as intolerable in the community.

49. At all times relevant hereto, Defendant knew with substantial certainty, or should have known that severe emotional distress would be produced by his conduct.

50. By engaging in the acts set forth in the foregoing paragraphs of this Complaint, Defendant engaged in extreme and

outrageous conduct and intentionally inflicted severe emotional distress upon Plaintiff.

51. By engaging in the acts set forth in the foregoing paragraphs of this Complaint, Defendant exploited and abused his friendship and his mentor relationship with Plaintiff, violated her trust, and caused her great distress.

52. As a direct and proximate result of the acts of Defendant as set forth in the foregoing paragraphs of this Complaint, Plaintiff has in the past been required, and may in the future required, medicine, medical, psychological and other treatment in order to cure herself of the injuries she has sustained; has in the past been obliged, and may in the future be obliged, to expend various sums of money for such medical care and treatment.

53. As further direct and proximate result of the acts of the Defendant as set forth in the foregoing paragraphs of this Complaint, Plaintiff has been caused to suffer and continues to suffer severe emotional distress, humiliation, embarrassment and financial loss.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against Defendant William Cosby, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus attorneys' fees,

interest, costs, punitive damages, and such other additional relief as this Court deems just and proper.

**COUNT IV**  
**Andrea Constand v. William Cosby**  
**Defamation/Defamation Per Se**

54. Plaintiff hereby incorporates by reference the prior paragraphs of this Complaint as though fully set forth at length.

55. At all times relevant hereto, Plaintiff was a law abiding citizen of the Commonwealth of Pennsylvania and/or Pickering, Ontario, who enjoyed the respect, confidence and esteem of her neighbors, as well as others in the community, and has never been adjudged guilty of any crime, offense or violation of the law which would tend to lessen the respect, confidence and esteem which she enjoyed, and to which she was entitled.

56. At all times mentioned herein, Defendant acted on his own or through his authorized agents, representatives, sources, servants or employees who acted for Defendant's benefit, under Defendant's control or direction, and within the course and scope of their authority, agency, representation or employment.

57. On or before February 7, 2005, the Defendant, through his representatives, agents, servants, or employees intending to injure the Plaintiff and to deprive her of her good name, credit



and reputation, falsely, maliciously, and wickedly provided information for at least one publication which aired on Celebrity Justice, a nationally syndicated television show, and was posted on the Celebrity Justice website concerning Plaintiff.

58. On or about February 21, 2005, Defendant gave an "exclusive" interview to The Enquirer, a national tabloid with a circulation of about 1.5 million, intending to or knowing it would injure Plaintiff, and to deprive her of her good name, credit and reputation, in which Defendant said, "I am not going to give in to people who try to exploit me because of my celebrity status."

59. The statements contained in the above publications, shows and websites intended to and did convey to the viewers and/or readers thereof, either directly or by implication, that Plaintiff asked Defendant for money; she did so before she went to the police; and, that her actions constituted a "shakedown", or an attempt to extort money from Defendant, and to exploit him.

60. The statements and charges in the publications, shows, and/or websites identified in the foregoing paragraphs of this Complaint are false, and Defendant knew or should have known that they were false at the time of the publications.

61. Plaintiff has never, at any time, been guilty of the crimes alleged by Defendant, nor was she ever an accessory to, nor an aider and abettor of, such criminal acts, nor has she ever been guilty of any other violation of law, but she has at all times been a peaceable and law abiding inhabitant of the several communities in which she has resided from the day of her birth to the present time.

62. Defendant and/or his representatives and agents knew, or should have known that the statements and charges contained in the publications, shows and websites identified in the foregoing paragraphs of this Complaint were false when made, and Defendant uttered and published them either intentionally and maliciously, or with reckless disregard for their truth or falsity.

63. The statements and charges contained in the publications, shows and websites identified in the foregoing paragraphs of this Complaint were printed, published, circulated and aired by Celebrity Justice on February 7, 2005, and by The Enquirer on or about March 4, 2005, and were widely heard and read by the Plaintiff's family, neighbors, and friends and diverse other persons, who understood immediately that Plaintiff was the accuser to which Cosby and/or his representatives, agents, servants or employees referred.

64. By reason of the printing, publication, and circulation of the statements and charges contained in the articles, shows, publications, and websites identified in the foregoing paragraphs of this Complaint, Plaintiff has been brought into scandal and reproach, and has been held up to scorn and contempt among her neighbors, business acquaintances, and other good citizens, and is suspected by them to have been guilty of the crimes and fraudulent practices which Defendant's articles imputed to Plaintiff, as a result of which the Plaintiff has suffered in her business, her reputation, feelings and peace of mind, to her great financial loss and damage, and to her great humiliation.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against Defendant William Cosby, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus attorneys' fees, interest, costs, punitive damages, and such other additional relief as this Court deems just and proper.

**COUNT V**

**Andrea Constand v. William Cosby**  
**False Light/Invasion of Privacy**

65. Plaintiff hereby incorporates by reference the prior paragraphs of this Complaint as though fully set forth at length.

66. The statements identified in the foregoing paragraphs of this Complaint made by Defendant, or through his authorized representatives, agents, servants or employees were highly offensive statements made against Plaintiff, which portrayed her in a false light.

67. The statements identified in the foregoing paragraphs of this Complaint made against Plaintiff were publicized by Defendant, or publicized through his authorized representatives, agents, servants, employees and sources.

68. Defendant and his authorized representatives, agents, servants, employees and sources knew or should have known that such statements were false, or recklessly disregarded the falsity of said statements.

69. Defendant and/or his authorized representatives, agents, servants or employees created a false impression by knowingly or recklessly publicizing selective pieces of information, rendering the publication susceptible to inferences casting Plaintiff in a false light.

70. By reason of Defendant's aforesaid conduct, Plaintiff has suffered in her business, her reputation, feelings and peace of mind, to her great financial loss and damage, and to her great humiliation.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against

Defendant William Cosby, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) plus attorneys' fees, interest, costs, punitive damages, and such other additional relief as this Court deems just and proper.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury in this matter.

Respectfully submitted,  
Troiani/Kivitz, L.L.P.

/s/ Bebe H. Kivitz  
Bebe H. Kivitz, Esquire  
I.D. No. 30253  
Dolores M. Troiani, Esquire  
I.D. No. 21283  
38 North Waterloo Road  
Devon, PA 19333  
(610) 688-8400  
(610) 688-8426 fax

Attorneys for Plaintiff,  
Andrea Constand

Dated: March 8, 2005



This is Google's cache of [http://www.steele4da.org/?\\_escaped\\_fragment\\_=news-and-events-full/c1y1a](http://www.steele4da.org/?_escaped_fragment_=news-and-events-full/c1y1a). It is a snapshot of the page as it appeared on Jan 4, 2016 18:13:43 GMT.

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STEELE4DA

A tough, skillful and innovative prosecutor, Kevin Steele has been serving Montgomery County for 20 years.



ADVOCATING FOR "SMART ON CRIME" LEGISLATION





ACTIVE IN HIS COMMUNITY



RECEIVING THE "HERO AMONG US" AWARD

News & Events

FOR IMMEDIATE RELEASE  
October 27, 2015

RESPONSE TO CASTOR STATEMENT

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754

NORRISTOWN, Pa. – Bruce Castor released a statement yesterday questioning my ethics and accusing me of a cheap campaign stunt.

His statement is untrue.



The origins of the current Cosby story began this summer when a federal judge released testimony from a civil case against Bill Cosby. My opponent has spent the past four months defending in the press his decision not to prosecute Cosby. Last week he asserted he could not prosecute because no other victims had come forward. We point again to his own signed press release declining to authorize the filing of

criminal charges in the Cosby case: Castor himself states, "Lastly, the District Attorney reviewed statements from other persons claiming that Mr. Cosby behaved inappropriately with them on prior occasions." [Castor Press Release, 2/17/05]

The accusation this lawsuit was orchestrated by me is simply untrue. Attorney Troiani is representing the interests of her client, which are unrelated to my campaign. My opponent declined the Cosby prosecution. He made public statements about a victim. And now, in an attempt to deflect attention away from his record, he is blaming others and alleging political motivation.

FOR IMMEDIATE RELEASE  
October 26, 2015

IN CASE YOU MISSED IT - ALLRED ON CASTOR

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754

NORRISTOWN, Pa. – On Friday, October 23, 2015, Ms. Allred, Attorney for Cosby victims held a press conference in New York and spoke on Castor:

"In 2005 the District Attorney in Montgomery County Pennsylvania, Bruce Castor, stated that there was not enough evidence to prosecute the allegations made by [victim]. This is what he said about Mr. Cosby, 'Did I think he probably did something inappropriate? Yes. Did I think that I could prove it beyond a reasonable doubt based on available, credible and admissible evidence? No, I didn't.' He said that despite the fact that there were 13 Jane Does that were prepared to testify in [victim's] case about Mr. Cosby and what they allege was similar misconduct against them." [Gloria Allred, 10/23/15]

Ms. Allred's comment comes on the heels of a public statement made by Bruce Castor several days ago, denying that any other victims had come forward until after he left office. Ms. Allred's statement confirms the record: Castor knew about the 13 additional victims when he was District Attorney.

FOR IMMEDIATE RELEASE  
October 21, 2015

STEELE LAUNCHES NEW AD ON CASTOR'S FAILURE TO PROSECUTE BILL COSBY

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754

[Watch ad here](#)

NORRISTOWN, Pa. -- Kevin R. Steele launched a crucial new phase of his campaign for Montgomery County District Attorney today, introducing a TV ad that touts his strong record of prosecuting sexual predators and draws comparison to his opponent's failure to prosecute Bill Cosby.

The 30-second ad, which is running on broadcast and cable television, highlights the 98 percent conviction rate of the District Attorney's Office under Kevin Steele, First Assistant District Attorney, and his success in obtaining tough sentences for sexual predators.

By contrast, former D.A. Bruce Castor, who now asks voters for the job back, chose in 2005 not to bring charges against Cosby. (1) Castor defended his decision, saying, "We don't charge people for making a mistake or doing something foolish." (2)

Castor admitted that other victims came forward at the time and that he had reviewed statements that Cosby had behaved inappropriately with them. Castor, however, shrugged off the collaborating statements, saying that there didn't appear to be any evidence that "would constitute a criminal offense." (3) He later tried to justify his refusal to prosecute saying, "If you pull the trigger on a case that

requires that testimony and the judge doesn't let it in," Castor said, "you end up looking like the biggest chump in the country." (4)

Years later, after many more victims had come forward, Castor admitted, "I thought he did it." (5) He tried to excuse himself by saying, "I didn't say that he didn't commit the crime." (6)

With numerous women alleging sexual abuse by Cosby, the news media has asked, "Why did Bruce Castor pass on a chance to lock up Bill Cosby?"(7)

And in an open letter to Castor published by The Philadelphia Inquirer last month, a lawyer for Cosby's 2005 accuser, lambasted Castor for his mishandling of the case (8).

"We have watched you appear on various media outlets engaging in blatant revisionist history," attorney Dolores Troiani was quoted telling Castor. "We demand that you retract your statement concerning [my client] and issue the apology to her that is 10 years overdue."

#### Citations:

(1) Nicole Weisensee Egan, No Criminal Charges Against the Cos (Philly.com, Feb. 18, 2005),

[http://www.philly.com/philly/entertainment/celebrities/No\\_criminal\\_charges\\_against\\_the\\_Cos\\_2005.html](http://www.philly.com/philly/entertainment/celebrities/No_criminal_charges_against_the_Cos_2005.html)

(2) Lisa DePaulo, Why Did Bruce Castor Pass on a Chance to Lock Up Bill Cosby? (Bloomberg Politics, Nov. 26, 2014),

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(7) DePaulo, Why Did Bruce Castor Pass on a Chance to Lock Up Bill Cosby?

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POLICE OFFICERS ACROSS MONTGOMERY COUNTY CHOOSE STEELE FOR DISTRICT ATTORNEY

September 2015

Police officers and state troopers in Montgomery County who work with the District Attorney's Office on a regular basis have endorsed Kevin Steele to become our next District Attorney. They have agreed that he is the best person to lead the office forward.

Fraternal Order of Police Lodges 14, 28, 31 and 37 represent law enforcement officers covering all of the municipalities in Montgomery County. FOP Lodges 14, 28, 31 and 37 have spoken with one voice and have voted to endorse Kevin Steele for District Attorney. In an extraordinary series of events this spring and summer, each lodge in turn chose Kevin Steele as the individual they most trust for his

sound and fair judgment in exercising the considerable authority of District Attorney, as well as for his dedication to doing the right thing when it counts the most.

Voters are also learning what these officers and these troopers already know -- that Kevin Steele has an unsurpassed, unrelenting record for the past two decades in fighting for justice and fairness in our county. They know Kevin has provided police with the tools and training they need to protect us, and they know, as do the people of Montgomery County that in the aftermath of crime, he fights for the victims and their families.

Steele is extraordinarily well-prepared for the job of District Attorney. As the First Assistant D.A., he oversees 146 prosecutors, detectives and administrative personnel who handle approximately 10,000 criminal cases per year. He leads the Homicide Unit in all of its investigations and supervises all non-consensual wiretap investigations. In his legal career, he has personally conducted well over 100 trials and prosecuted more than 1,800 cases, including 40 defendants who have committed homicides.

Kevin's mission is to convict the guilty, protect the public and exonerate the innocent. He is honored to have received the support, encouragement and endorsement of the men and women of Montgomery County's Fraternal Orders of Police.

FOR IMMEDIATE RELEASE  
July 16, 2015

STEELE ENDORSED BY ALL FRATERNAL ORDERS OF POLICE REPRESENTING ALL THE MUNICIPAL POLICE DEPARTMENTS IN  
MONTGOMERY COUNTY

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754

Having received the Lodge 14 endorsement last night, Kevin Steele has earned the support of all Fraternal Orders of Police representing all the municipal police departments in Montgomery County. Law enforcement officials across the county agree that Steele, a career prosecutor and First Assistant District Attorney, is the right choice to be elected District Attorney on November 3rd.

FOP Lodge 14, which represents police officers and retirees in 47 police departments in Montgomery County townships and boroughs, voted to endorse Steele because of his strong support of law enforcement officials and his commendable record of working with police for ensuring justice. Kevin Steele has repeatedly pledged that as District Attorney he would work to convict the guilty, protect the public and exonerate the innocent.

Steele was previously endorsed by the two independent F.O.P. Lodges -- Lodge 31, which represents police officers in Norristown, and Lodge 28, which represents officers in Lower Merion and Narberth.



"I am very grateful for the endorsement of police officers all across Montgomery County," Steele said. "I have worked hard to see that those who protect us are themselves protected. I work every day to make sure that justice is done and that the public is served."

Steele wears two wristbands. One is for Plymouth Township Officer Brad Fox, killed in the line of duty. When Fox's killer killed himself, Steele was able to prosecute the "straw purchaser" who provided the gun. The other wristband is in memory of Pennsylvania Wildlife Conservation Officer David Grove, also killed in the line of duty in Gettysburg, whose assailant Steele helped send to prison.

Steele began his law enforcement career in 1987 as an intern for the United States Secret Service in Washington, D.C. He worked in several prosecutors' offices through college and law school. Prior to graduation from law school in 1992, he was sworn as a Deputy District Attorney in Dauphin County.

Former District Attorney Michael Marino hired him as an Assistant District Attorney in Montgomery County in 1995. He was assigned to the Narcotic Unit and later became Captain of the unit, which allowed him to work closely with the Drug Task Force and its 400 officers from all over the county and was promoted to Chief of the Trials Division and then to First Assistant District Attorney, the position in which he currently serves.

FOR IMMEDIATE RELEASE  
July 13, 2015

#### NORRISTOWN SECOND F.O.P TO ENDORSE STEELE FOR MONTCO DISTRICT ATTORNEY

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754

Fraternal Order of Police Lodge 31, representing police officers and retirees in the Montgomery County seat of Norristown, endorsed Kevin R. Steele for county District Attorney in the November 3rd election.

The Lodge is "pleased to endorse you in your candidacy for District Attorney," President Matthew O'Connell wrote in a congratulatory letter to Steele. "We wish you all the best of luck and look forward to working with you in the future." The Norristown police officers are the second F.O.P. group in Montgomery County to endorse Steele.

Steele last month received the endorsement of F.O.P. Lodge 28, representing officers and retirees in Lower Merion and Narberth.

Joe Braun, Lodge 28 president, said: "Kevin knows us and has been in the trenches with us from the time he started as a young Assistant (District Attorney) right up to today. Our officers and detectives can call him at 3 in the morning, and he answers. Kevin is a time-tested leader who will make Montgomery County a safer place to live and will work with police officers to see that justice is done."

As the current First Assistant District Attorney, Steele is extraordinarily well-prepared for the job of District Attorney. He oversees the administration of approximately 9,000 criminal cases per year, and he oversees the Homicide Unit in all of its investigations, as well as personally supervising all non-consensual wiretap investigations. In his legal career, he has personally tried more than 100 trials and prosecuted more than 1,800 cases, including 40 homicide cases.

Steele's mission is to convict the guilty, protect the public and exonerate the innocent.

## ASSOCIATION NEWS

## Stepping Up

Kevin Steele becomes the 79th president of the Alumni Association. By RICHARD RYS

AS FIRST ASSISTANT district attorney of Montgomery County, Pa., Kevin Steele '92 JD Law knows something about high-pressure jobs. (If you watch the Discovery channel, you may have seen cases he's prosecuted—like the murder of a state game warden near Gettysburg—on true crime shows.) Add in Steele's campaign for county district attorney, to be decided this fall, and it's fair to wonder why he'd volunteer for his newest role: president of the Penn State Alumni Association. Steele laughs at the idea that some may question his sanity. "Often times, when you want to get things done, give it to a busy person," he says. "We all have a lot going on. But this is a chance to make an impact on our university, our alumni, and the community."

Steele, who succeeds Kay Franz Salvino '69 BA/HB, brings a decade of experience, having served as vice president of the Alumni Association and president of the Graduate School Alumni Society. A Dickinson Law grad, Steele says he will make it a priority to engage the entire Penn State alumni community. "I hope we can draw more of our alumni base from graduate schools and professional programs," he says. "They have a lot to offer."

Steele has also been a leader in the Grassroots Network, which marshals Penn State alumni and students as legislative advocates. But what really opens the eyes of lawmakers,



MASTER JUGGLER: "We all have a lot going on," says Steele of balancing his high profile job and the Alumni Association presidency. "But this is a chance to make an impact."

he says, is Penn State's broad influence. "It impacts the entire state, and that's something that gets overlooked," he says. "There are great campuses and programs across Pennsylvania—we are all one."

With Election Day looming in November, Steele is thankful for the support of his family (wife Tracy '95 JD Law and their three children) in helping him "juggle a few things," as he puts it. As for his Penn State family, he is eager to lead alumni toward a bright future. "This," he says, "is an opportunity I'm looking forward to."

FOR IMMEDIATE RELEASE  
June 23, 2015

GOVERNOR RENDELL ENDORSES KEVIN STEELE FOR MONTCO D.A.

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754

Former Pennsylvania Governor Edward G. Rendell today endorsed Kevin R. Steele for District Attorney of Montgomery County, hailing Steele as an exceptionally able and experienced prosecutor, who serves the county with dedication and integrity.

"In more than two decades of service to the people of Montgomery County, Kevin's mission is to convict the guilty, protect the public and exonerate the innocent," Rendell said. "As the First Assistant District Attorney, he manages the operations of more than 140 prosecutors, detectives and administrative staff in the D.A.'s office, and he personally oversees all the homicide investigations. Moreover, he has led by example, earning a reputation as a tough but fair prosecutor during his years in the courtroom."

Rendell said he ought to know a good district attorney when he sees one. Before he was Pennsylvania Governor and Philadelphia Mayor, he was Philadelphia District Attorney for two highly-regarded terms. Rendell also served 6 1/2 years as Assistant District Attorney before that. Like Steele, he prepared himself for the job by heading the homicide unit of the office.

"Kevin is extraordinarily well-prepared for the job of District Attorney," Rendell said, adding, "His service as an Assistant District Attorney, including holding 2 management positions is invaluable. He is a man of character and integrity and his values will ensure the fairness and professionalism of the district attorney's office."

Steele has been a career prosecutor since being sworn in 1992 and has a reputation for being a tough, skillful and innovative prosecutor, taking on some of the most challenging cases in Montgomery County. A tireless and collaborative advocate, Steele has devoted his entire professional career to fighting for justice in our community and in our Commonwealth.

"I am humbled and honored to receive Governor Rendell's support for my election to be the next District Attorney, and I thank him for supporting my candidacy," Steele said. "Governor Rendell knows that it takes courage, dedication and a strong team to do the important work of the District Attorney. I will work with the citizens in our communities and our partners in law enforcement all across our county to instill fairness and ensure justice."

Steele earned his bachelor's degree in criminal justice from George Washington University and his law degree from the Dickinson School of Law of Pennsylvania State University. He also earned a master's of law degree in trial advocacy at Temple University. In July, he will become President of the Penn State Alumni Association. He also is an adjunct professor of criminal law at Cabrini College, where he was recently honored as a top educator.

FOR IMMEDIATE RELEASE

JUNE 15, 2015

FRATERNAL ORDER OF POLICE ENDORSES KEVIN STEELE FOR MONTCO D.A.

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754

Fraternal Order of Police Lodge 28, representing police officers and retirees in Lower Merion Township and Narberth Borough, unanimously endorsed Kevin R. Steele for District Attorney of Montgomery County.

Joe Braun, FOP president, said that in his two decades as a county prosecutor, Steele has worked tirelessly and effectively to safeguard citizens, promote justice, and give police officers the support and training they need.

"Kevin knows us and has been in the trenches with us from the time he started as a young assistant right up to today," Braun said. "Our officers and detectives can call him at 3 in the morning, and he answers. Kevin is a time-tested leader who will make Montgomery County a safer place to live and will work with police officers to see that justice is done."

Braun praised Steele for successfully prosecuting felons who have attacked, injured and killed law enforcement officers. He noted that when the murderer of Plymouth Township Officer Brad Fox killed himself in 2012, Steele was able to convict the "straw purchaser" who provided the gun.

FOP Lodge 28 officers serve more than 62,000 Montgomery County citizens, including 58,000 in Lower Merion, the county's largest municipality.

Steele said he was honored to receive the FOP's endorsement.

"I have come to know these men and women quite well over our years of working together for the people of Montgomery County," Steele said. "I have the greatest respect for the professionalism, dedication and sacrifice of our law enforcement personnel. They are always there for us, and I have sought to be there for them."

As the current First Assistant District Attorney, Steele is extraordinarily well-prepared for the job of District Attorney. He oversees the administration of approximately 9,000 criminal cases per year, and he oversees the Homicide Unit in all of its investigations, as well as personally supervising all non-consensual wiretap investigations. In his legal career, he has personally tried more than 100 trials and prosecuted more than 1,800 cases, including 40 homicide cases.

Steele said he is reminded every day of the price law enforcement officers have paid to serve the public. He wears two wrist bands, one for Officer Fox and one for David Grove, a wildlife conservation officer also slain in the line of duty, whose killer he sent to prison.

"I will protect citizens and, when necessary, I will protect those who serve citizens," Steele said.

After his sweeping victory in the May Democratic primary, Steele stands in strong position to be elected D.A. in November. He announced that, as of the second reporting period, he has raised more than \$200,000 for his campaign.

FOR IMMEDIATE RELEASE

APRIL 2015

Kevin R. Steele honored with Cabrini College's Adjunct Faculty Teaching Excellence Award.

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754





On April 20, 2015, Kevin R. Steele was honored with Cabrini College's Adjunct Faculty Teaching Excellence Award.

At the Adjunct Faculty Appreciation Ceremony, Dean Beverly Bryde, Ed.D., said "each year the Office of Academic Affairs selects an adjunct faculty member, upon recommendation of Department Chairs, faculty and students, to receive a special award."

Dr. Kathleen McKinley, the Criminology and Sociology Department Chair said, "Kevin has brought the everyday real life experience of a county prosecutor to the college and provided our students with a window to the real world of criminal prosecution, criminal law and criminal procedure."

Dr. Jeff Gingerich, Interim Provost and Vice President of Academic Affairs and Dr. Kathleen McKinley, Sociology and Criminology Department Chair.

Cabrini students were vocal in support of Kevin's nomination stating "[h]is ability to connect course concepts with stories of his own experiences within the justice system, willingness to push students to think critically of their studies, and skill in effectively communicating detailed aspects of the law

(with a much appreciated measure of humor) to students of all abilities make for an excellent educator, and all the while maintaining a relaxed and approachable attitude." Another said "Professor Steele was by far the most professional yet down to earth teacher I had throughout my college experience."

Kevin is honored to receive this award. "I hope to have made a difference with the students by teaching from a practical perspective that I have gained by working for years in the trenches. I expect many of our students will be our future

leaders in the field of criminal justice."

Pictured with Dr. Jeff Gingerich, Interim Provost and Vice President of Academic Affairs and Dr. Kathleen McKinley, Sociology and Criminology Department Chair.

FOR IMMEDIATE RELEASE  
MARCH 13, 2015

STEELE OFFICIALLY KICKS OFF CAMPAIGN FOR MONTCO D.A.

Contact: Marie Beresford, Marie@Steele4DA.org, 215 908-0754



Celebrating 20 years of service to the people of Montgomery County, Kevin Steele kicked off his campaign for Montgomery County District Attorney on Thursday night in Conshohocken, pledging to lead this most important office with experience, innovation and fairness. "I am not doing this because I am a politician," Steele said at the Spring Mill Fire House. "

I am doing this because I am a career prosecutor. I work every day to make sure that justice is done and that the public is protected." "I am a husband.

I am a father. Beyond that, I am the vice president of the (Penn Wynne/Overbrook Hills) fire department. I am involved in coaching my kids. I will bring a common sense approach to what

we do in our office." Steele currently is the first First Assistant District Attorney and the No. 2 official in the Montgomery County District Attorney's Office. He noted that today (Friday, March 13) marks exactly 20 years since his start date.

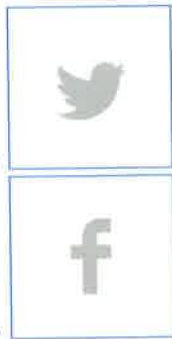
Steele is extraordinarily well-prepared for the job of District Attorney. He oversees 146 prosecutors, detectives and administrative personnel who handle approximately 9,000 criminal cases per year. He leads the Homicide Unit in all of its investigations and personally supervises all non-consensual wiretap investigations. In his legal career, he has tried more than 100 trials and prosecuted more than 1,800 cases, including 40 homicide cases.

The endorsed Democrat for District Attorney, Steele filed his nominating petitions with almost 1,000 voter signatures this week to officially make himself a candidate in the May 19 primary. He is off to a fast start, already raising more than \$100,000 for his campaign.

"I am both humbled and incredibly appreciative of the reception I am receiving by people throughout Montgomery County," Steele said. "We have gained great early momentum in the campaign by talking about experience, innovation and fairness. I am looking forward to sharing my ideas over the coming months on the future of the D.A.'s Office and hearing about the concerns of the people of our community."

Marcel L. Groen, the Montgomery County Democratic chairman, told the throng at Spring Mill Fire House: "For the first time we are going to elect a Democrat for District Attorney. He is going to show this county what ethical is, what fairness is. Your political affiliation and your background don't matter."

Bernard Griggs Jr., business representative for the Building and Construction Trades Council, said of Steele: "His record proves that he is ready, willing and able to take that position." Steele's mission is to "convict the guilty, protect the public and exonerate the innocent."



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Paid for by Steele4DA Committee, PO Box 568, Bryn Mawr, PA 19010

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VIDEO: Chelsea Handler Stuffed Her Bra with What?!



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## New Campaign Ad Criticizes Pennsylvania Prosecutor for How He Handled the Bill Cosby Case in 2005

183 SHARES

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PHOTO COURTESY OF BRUCE CASTOR / PHOTO BY BRUCE CASTOR

BY NICOLE WEISSENER EGAN @nweisenseeeegan UPDATED 10/20/2016 AT 09:00 PM EDT - ORIGINALLY PUBLISHED 10/26/2015 AT 02:05 PM EDT



TIME MACHINE

VIDEO: Watch Leo Change from Boyish Breakout to Hollywood Heavyweight



VIDEO: Taylor Swift and Calvin Harris 'Are Absolutely Not Living Together' :Rep



VIDEO: Meet the Mom Who Didn't Want Her Daughter to Grow Up Without Knowing Who Her Dad Is

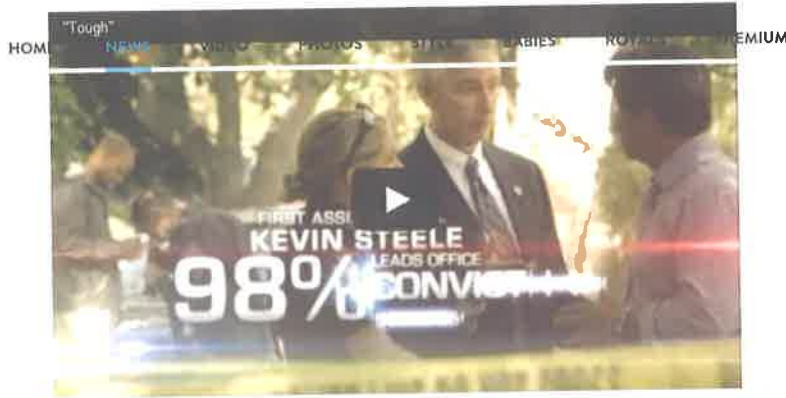
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DETECTS, ALERTS AND HELPS  
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PROTECT WITH THE BEST





The opponent of Bruce Castor, the former district attorney in Montgomery County, Pennsylvania, who is running again for his old job, has launched a television ad criticizing Castor for not prosecuting Bill Cosby in 2005.

The new 30-second television ad, from candidate Kevin Steele, is entitled "Tough." It is currently airing in the Philadelphia market.

In the ad, Steele, currently Montgomery County's first assistant district attorney, boasts of his office's "98 percent conviction rate" and the "tough sentences for sexual predators" he has purportedly earned in his present position.

Keep up with your favorite celebs in the pages of **PEOPLE Magazine** [by subscribing now.](#)

The ad then refers to Castor as "the former DA who refused to prosecute Bill Cosby," and uses Castor's own words against him by citing comments he has made to various news outlets about the case: "In Pennsylvania, we charge people for criminal conduct," he told [Bloomberg Politics](#) in November 2014. "We don't charge people for making a mistake or doing something foolish."

Castor, now a Montgomery County commissioner, did not respond to a request for comment about the ad. Neither did Cosby's attorney, Monique Pressley. Cosby's other lawyer, Marty Singer, has denied all allegations of sexual assault against Cosby, saying in [a statement last November](#) that claims "about alleged decades-old events are becoming increasingly ridiculous."

In February 2005, Castor announced he was not [filing charges against Cosby](#) for allegedly drugging and sexually assaulting former Temple employee [Andrea Constand](#), citing "insufficient credible and admissible evidence," even though nearly a dozen women had come forward to support her story.

The Anti-Aging Device that Delivers  
Improve Your Skin [SHOP IT](#) [REMOVES](#) [SUBSCRIBE](#)



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#### FROM OUR PARTNERS



ETONLINE.COM  
The Cause of Kristin Cavallari's Brother's Death Revealed



BRAVOTV.COM  
What You Didn't Know About Yolanda & David Foster's Relationship



ABOUT.COM  
How Much 'Real Housewives' Stars Are Really Worth



ETONLINE.COM  
Yolanda Foster Speaks Out About Her Divorce From David Foster



TODAY.COM  
Gwen Stefani Opens Up About Divorce From Gavin Rossdale



TODAY.COM  
Bo Derek and John Corbett Share Sweet Story of How They Met

Steele has not yet said what he would do with the case should he win the election, even while emphasizing in the ad that he doesn't think Castor did enough when he had the chance the first time.

"Many more victims came forward," the narrator says, "and Castor admitted he could have used their testimony against Cosby." But Castor "didn't even try," the narrator adds.

"Bruce Castor is not looking out for the victims," the ad concludes.

Last month, Constand's attorneys from 2005, Dolores Troiani and her former law partner Bebe Kivitz, [blasted Castor](#) for comments he made about the case on his Twitter and Facebook pages.

In the posts, Castor linked to a [Sept. 14, 2015 article](#) in *The Philadelphia Inquirer* which noted that the statute of limitations for Constand's case isn't up until January 2016 and wrote: "Cosby victim

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Blake Shelton and Gwen Stefani Party in Nashville with RaeLynn for a Very Special Wedding



Ronda Rousey and Travis Browne Share a Sweet Parking Lot Smooch



VIDEO: Chelsea Handler Stuffed Her Bra with What?!



PEOPLE PREMIUM  
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# Pennsylvania District Attorney Allegations

42  
SHARES



Kevin Steele (left) and Bruce L. Castor Jr

CHRISTOPHER DOLAN/THE TIMES & TRIBUNE/AP, MATT ROURKE/AP

BY NICOLE WEISENSE EGAN @nweisenseeeegan UPDATED 10/23/2015 AT 09:05 AM EDT • ORIGINALLY PUBLISHED 10/22/2015 AT 07:05 PM EDT

The two candidates for district attorney in Montgomery County, Pennsylvania are attacking each other with television ads over sexual assault allegations brought against Bill Cosby in 2005.

Just two days after Democratic candidate Kevin Steele released a new television ad, attacking Bruce L. Castor, Jr., a Republican, for not prosecuting Bill Cosby in 2005 when he was district attorney, Castor released his own television ad attacking Steele, who is the county's



TIME MACHINE

VIDEO: Watch Leo Change from Boyish Breakout to Hollywood Heavyweight



From Chandeliers to a Custom Wine Fridge: Inside Flip or Flop's Tarek and Christina El Moussa's Home: All the Details!



Sting's Son Looks and Sounds Exactly Like His Dad

Recommended by



The Anti-Aging Device that Delivers Immediate (!) Results

Recommended by



current first district attorney, for doing nothing.

"Kevin Steele had the power to help victims of Cosby but he sat on his hands," Castor, who is now a county commissioner but is running for his old job, says in the TV ad.

Steele says he and Castor differ over how they treat alleged crime victims, which is why he released his ad Oct. 20.

"This ad highlights how he treats victims as opposed to how I handle things," Steele tells PEOPLE a little less than two weeks out from the November 3 election. "I go after sexual predators."

G. Terry Madonna, a political analyst at Franklin & Marshall College in Lancaster, Pennsylvania, called the ad "potentially very devastating" and said it could make a difference in the election "unless there's some kind of adequate response" from Castor.

"Castor has to deal with the decision he made in 2005 and convince the voters this was a reasonable choice," Madonna tells PEOPLE.



Andrea Constand

RON BULL / TORONTO STAR / ZUMA

In January 2005, former Temple employee [Andrea Constand](#) told authorities that Cosby, now 78, [had drugged and sexually assaulted her](#) at his Elkins Park, Pennsylvania, mansion the previous January. Castor [decided against charging Cosby](#), citing "insufficient credible and admissible evidence."



Taraji P. Henson, Plus Ryan Gosling, Natalie Dormer, Khloé Kardashian & More!



See How Stars Are Getting the Party Started Before the Golden Globes



Taraji P. Henson, Plus Ryan Gosling, Natalie Dormer, Khloé Kardashian & More!



The Ultimate Golden Globe Nominee Style Throwbacks (Dang, Dame Helen!)



10 Best Celeb Quotes This Week



The Hottest Thing In Modeling? Being Over 50!

Constand subsequently filed a civil suit against Cosby, which he [settled with a confidentiality agreement](#) in late 2006.

In Steele's new ad, entitled "Trust," the announcer refers to Castor as "the former DA who refused to prosecute Bill Cosby," adding, "many more victims came forward and Castor admitted he could have used their testimony against Cosby" but that he "didn't even try."

"Bruce Castor is not looking out for the victims," the ad concludes.

Castor did not respond to requests for comment from PEOPLE but responded to the ad on [his Facebook page](#) and with an ad of his own.

"So much for a 'clean campaign!'" he wrote on Facebook. "I particularly love this quote from the ad: 'Many more victims came forward, and Castor admitted he could have used their testimony against Cosby. But Castor didn't even try.' No kidding. I don't try because I was no longer the DA when the information became available!"

In the ad, Castor about the Cosby case, saying he did not know the identities of the other accusers while he was in office.



Take a Tour of Yolanda Foster's Gorgeous New Post-Split Condo (PHOTOS)



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"But Kevin Steele could have done something because he is still a prosecutor," Castor says in the ad. "Now he's trying to blame me for his mistakes and incompetence. Despicable desperation politics. Disgusting lies. Kevin Steele had the power to help victims of Cosby but he sat on his hands."

Steele responds by saying that unlike Castor in 2005, since he is not the district attorney, he does not have the power to make decisions like that.

"In 2005 Castor failed to prosecute Cosby," he tells PEOPLE. "That is a decision that the district attorney made. I am not the district

attorney so the bottom line is I don't get the final call at this point."

After Constand's case made headlines in January 2005, about a dozen women contacted Castor's office saying that they, too, had been drugged and/or sexually assaulted by the entertainer. The women came to Castor before he announced he was not going to arrest Cosby.

Castor acknowledged that multiple women had brought to him complaints that Cosby had behaved inappropriately in his Feb. 18, 2005 press release announcing he would not be filing charges against the entertainer.

"Lastly, the District Attorney reviewed statements from other persons claiming Mr. Cosby behaved inappropriately with them on prior occasions," the statement said. "However the detectives could find no instance in Mr. Cosby's past where anyone complained to law enforcement of conduct, which would constitute a criminal offense."

The list of women accusing Cosby of drugging or sexually assaulting them has now grown to more than 50. Cosby, through his attorney, Martin Singer, has denied all allegations, saying in a statement last November that claims "about alleged decades-old events are becoming increasingly ridiculous." (Cosby has since replaced Singer on two lawsuits filed against him.)

Current District Attorney Risa Vetri Ferman, who is running for judge in Montgomery County, neither confirmed nor denied she has reopened Constand's case but said in a statement to PEOPLE, "A decision made by one District Attorney may be revisited, at any time up to the expiration of the statute of limitations, either by a new District Attorney and/or because additional evidence has been discovered," she said in a statement given to PEOPLE.

"Up until the time that the statute of limitations expires, charges can always be brought," the statement said. "As ministers of justice, I believe prosecutors have a responsibility to review past conclusions, whether their own or a predecessor's, when current information might lead to a different decision."

Steele also criticized Castor for his comments on Constand last month on his Twitter and Facebook pages, in which he appeared to question her credibility.

[View 11 more comments](#)

EARLIER IN 2015

PHILLY.COM

**Bruce Castor**

September 12 at 4:48pm · 15

Inky: Cosby victim told police much different than she told the court in her lawsuit. First I saw that in a story. Troublesome for the good guys. Not good.



### Time hasn't run out on Pa. Cosby case

Dozens of women have come forward this year to accuse Bill Cosby of sexual misconduct, their allegations bonded by one undisputed fact: Each claim is too old to prosecute.

PHILLY.COM

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6 people like this.

Bruce Castor's social media post

"I think they are examples of belittling a victim," Steele says. "I think the voters should consider his judgment and I think they should consider how he has treated a victim – that he has made comments about her instead of being compassionate."

Constand's attorney, Dolores Troiani and her former law partner Bebe Kivitz, sent Castor an open letter last month [blasting him for the comments](#) and demanding an apology and retraction.

"The tweet can only be viewed as a defamatory comment as to the character of our client," they wrote, according to a copy of the letter obtained by PEOPLE. "It appears that it is your intention to create an issue regarding our client's credibility."

Troiani also alleges that Castor treated Constand poorly when he was investigating the case in 2005.

"He treated Andrea with total disrespect and disregard for her as a victim," Troiani told PEOPLE last month.

Castor told *The Philadelphia Inquirer* he didn't owe Constand an apology.

"I don't apologize for making decisions based upon the law and the evidence," he [told the paper](#). "Do I wish that there was evidence [in

2005] that would have supported the arrest of Cosby? Yeah."

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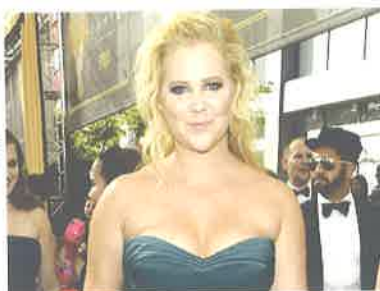
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Dee Hart • 3 months ago

What if it was ones mother, sister or daughter reporting these abuses. Would it be more believable then? Total lack of help from the authorities at the time. 50 plus women can not all be full of B.S

1 • Reply • Share



jinarvada → Dee Hart • 3 months ago

What if your brother, father, best friend, ws being accused of rape without credible evidence? By one woman or 100? Are you one of those who think that "well, if 40 women come forward I would start wondering? and just go from there?

2 • Reply • Share



Deebers1956 → jinarvada • 3 months ago

If my brother was accused of sexually assaulting 10 women you

can be damn sure I would question him. One thing I've learned is sometimes people we love are not the people we thought they were. Brothers, Dads, Uncles... They can have secrets too!

2 ^ v • Reply • Share ›



**jinarvada** → Deebers1956 • 3 months ago

Without evidence, accusations 4 decades old?

3 ^ v • Reply • Share ›



**Deebers1956** → jinarvada • 3 months ago

Let's get this evidence thing straightened out. First of all Renita Hills Attorney says she has "physical evidence." We know from Castor that Jane Doe #10 has "physical evidence." We also know that Lili Bernard had evidence, including medical records. The NJ police couldn't use because she was 3 months past the SOL. So now we have to wait for court to see what the evidence is, Cosby has been under investigation in PA since July and we still don't know whether LAPD will lay charges. Again, we have to wait and see.

^ v • Reply • Share ›



**jinarvada** → Deebers1956 • 3 months ago

Some of them "claim" to have evidence. Is it credible, admissible evidence that will actually help prove something? It's one thing to say you have evidence, but a picture of yourself with Cosby at a restaurant isn't evidence of rape or evidence of consent or lack of. Medical records immediately following the alleged assault that may include toxicology reports to show evidence of certain types of drugs in your system, DNA evidence, bruises etc. are evidence. Medical records 20 years later stating you have experienced emotional trauma not so much. Dicey. We don't have to wait for an indictment. If the real kind of evidence existed, the accusers can post it and identify witnesses. This is the court of public opinion they keep reminding us of. They don't have follow court procedure or rules of evidence. We, the public want to see it. They have tried and convicted him in the court of public opinion. It's time for them to reveal their so-called evidence.

5 ^ v • Reply • Share ›



**RapelsNoJoke** → jinarvada • 2 months ago

Lili Bernard's evidence was so credible that the detectives held her hand and had tears in their eyes while she testified. She has witnesses, too. But, as you know, she missed the SOL cutoff by three months. So...."too bad", right?

Castor also said Jane Doe #10 had credible evidence. Are you saying Castor was "just making a frivolous claim that couldn't be verified"?

Huth has evidence as well and as you know that's in the process of going to trial.

As you read recently, a criminal investigation has been taking place since July when the depo was released. This was not instigated by a victim. If they didn't believe something was there, they would not waste their time.

It is time for you to open your eyes and realize this is very real, and very true. The "where's the evidence" argument has long been left in the dust, yet you still ask it as if it's relevant. It's not. The walls are closing in on Cosby, legitimately, legally, and rightfully. God willing, within a few months your judgmental mouths will be permanently silenced.

^ v • Reply • Share ›



**FiddleRox** → RapelsNoJoke • 2 months ago

Oh, and Judy Huth's "evidence" can ONLY be that she went to shrink within the last 3 years. Otherwise, she lost her suit out of the gate because "date of discovery" would be much earlier and thus place her claim outside the SOL!

1 ^ v • Reply • Share >



**RapelsNoJoke** → FiddleRox • 2 months ago

I'm not concerned with what you think can ONLY be or not. you're an idiot.

^ v • Reply • Share >



**FiddleRox** → RapelsNoJoke • 2 months ago

Sorry dear. The IDIOT is YOU! And you've proven it time and again. Thanks.

1 ^ v • Reply • Share >



**RapelsNoJoke** → FiddleRox • 2 months ago

Nope!

^ v • Reply • Share >



**FiddleRox** → RapelsNoJoke • 2 months ago

There you go acting childish again. Wow. What a way to act "trustworthy" "credible" or for others to even take you seriously!

1 ^ v • Reply • Share >



**RapelsNoJoke** → FiddleRox • 2 months ago

Oh I don't care about that! I just like making you froth at the mouth, Fiddles! You still haven't figured out that I'm "wabbit season-ing" your Daffy Duck a\$\$! lol!

^ v • Reply • Share >



**FiddleRox** → RapelsNoJoke • 2 months ago

Sure you are..You do resemble Elmer Fudd!!

1 ^ v • Reply • Share >



**FiddleRox** → RapelsNoJoke • 2 months ago

Well. Where's the evidence? If Lili was soo "credible" she could easily bring her "evidence" forward! Why doesn't she? And Jane Doe #10?? Which one is that? She could bring her "evidence" forward too!

And NO! The "investigation" did NOT begin back in July! That's you and your ilk jumping to a conclusion again! It's also been established that it did NOT begin in July.

THANKS!!

1 ^ v • Reply • Share >



**RapelsNoJoke** → FiddleRox • 2 months ago

Bwahahahaaaaa! Provide your source that it did NOT begin back in July.

^ v • Reply • Share >



**FiddleRox** → RapelsNoJoke • 2 months ago

Provide yours that says it did begin in July!! You can't because no source says that an investigation began in July! The articles only say "after the deposition was released". That means at any time up until late September. And you and I both know there are processes the DA must have taken before they initie'ad an investigation. That takes time. Thanks.

1 ^ v • Reply • Share >



**RapelsNoJoke** → FiddleRox • 2 months ago

I'm not allowed to provide my source. ;) I can only confirm. Oh....you don't have to believe me! I don't care about that.

^ v • Reply • Share >



**FiddleRox** → RapelsNoJoke • 2 months ago

And what "source" would you have? Especially after starting your "petition" that was taken down within a day or two? Why would you have needed to start a petition if you had a "source" that you could have just asked? But you do make a whole lot of claims and NEVER back any of it up!

Thanks!!

1 ^ v • Reply • Share ›

**Deebers1956** → jinarvada • 3 months ago

The women who have evidence against BC (other than Bernard) have pending lawsuits against him. I hardly think they would go that far without "credible evidence" but we shall see. As for presenting it to the public? No Attorney would allow that before it goes to court. So, again, we will see the evidence when it goes to court and see how credible it is. The courts will determine that? No?

1 ^ v • Reply • Share ›

**jinarvada** → Deebers1956 • 3 months ago

Oh in this particular circumstance, I think they would go that far, filing a lawsuit, since nobody has yet been allowed to question the value and admissibility of their evidence, they think they have nothing to worry about. Jane Doe "10" (is she otherwise known as TS) had that "evidence" long before she filed suit. If it is the same stuff she presented to the media so far (copies of WU money orders and other things), it is hardly worth tipping this "rape" case on end. She has already stuck her foot in her mouth when she told a national magazine that she knew Cosby gave her quaaludes, now she's trying to back away from that. If they really "misquoted her" then she should sue them, not Cosby, and force them to produce interview notes or tape. But she isn't doing that, is she? We already know she had a relationship with BC. She has jumped in front of every camera and microphone she could to tell us and she is one of the very few he mentioned in the Depo. We know there was consensual sex after her Catholic mother advised her to call him and see if he would take care of her. There's probably ample DNA to show that they knew each other and had sexual contact, but it can't prove rape at this point since her story is so loaded with contradictions, consensual relationships, and actual bragging about the gifts and money and hotel suites she got out of him. Bernard's trauma assessment is debatable. If she has pictures of bruises, medical reports immediately following the alleged rape, she should produce them. She is currently claiming that coffee tables with sharp edges trigger her terror because she bumped into one when Cosby raped her. Bruise?

1 ^ v • Reply • Share ›

**Passing through** → jinarvada • 3 months ago

Hi Dear, Was there something missing in this comment?

"I hardly think they would go that far without "credible evidence" but we shall see. As for presenting it to the public? No Attorney would allow that before it goes to court. So, again, we will see the evidence when it goes to court and see how credible it is. The courts will determine that? No?"

Get Your and Fiddles panties unwadded and wait for due process. Isn't this what you wanted all along? Really.



bringing up all your drama, is how shall I put it, delicately, making the two of you flogging a non issue.

Don't understand, yet? Let the Courts Decide..Bye

1 ^ v • Reply • Share ›

**jinarvada** → Passing through • 3 months ago

You were the side that said the court of public opinion would be sufficient. Now they should put up or shut up. Following due process, the current lawsuits are not likely to produce convincing evidence of rape or drugging without knowledge. That's a ruse.

2 ^ v • Reply • Share ›

**Passing through** → jinarvada • 3 months ago

Now , That's an odd comment...but I'm not surprised when I look at the source.

I think the court of public opinion has already spoken...No point in mentioning all the Various Org. that publicly spoke up. Are they all wrong?

Let Castor discuss Due Process...No, instead let's wait till the election is over.

^ v • Reply • Share ›

**HornOrSilk** → jinarvada • 3 months ago

It's one of the many sleight of hands they do, "Court of public opinion" for them, but for us, we must be quiet. They are allowed to say all kinds of accusations, we are not allowed to give the doubts based upon lack of presented evidence.

2 ^ v • Reply • Share ›

**Jessie** → HornOrSilk • 3 months ago

The Cosby defenders were the ones demanding for this to be tried publicly. How many times have you folks called for more evidence? You got it, didn't like it, but cosby suffered each time as a result. Hopefully in the future, SOLs and incompetence will not be a barrier and rape allegations can be handled by the courts. Isn't this something we all want?

1 ^ v • Reply • Share ›



**Passing through** → HornOrSilk • 3 months ago

Hahaha...I guess when you're losing Horn, it's best to stay dead. it's not message board posters...It's every one BUT YOU and a small group.

That's why you guys are referred to as die hards or dead heads.

^ v • Reply • Share ›



**jinarvada** → HornOrSilk • 3 months ago

Yes. I like to push their buttons on this a little because I'm guessing there is no significant credible evidence that proves sexual assault or drugging without knowledge.

2 ^ v • Reply • Share ›





**HornOrSilk** → jinarvada • 3 months ago


You see the lying now? We wanted a "public court"? We were the ones talking about the "court of public opinion"? And we got evidence? LOL. What nonsense. 1) We have said if people want to go and make a statement in the public, and can't do anything in court, they can still prove it with evidence. They took it to the public. They still have yet to show the proof. But the idiots think that more accusations=more evidence, so proof. No. 2) And so this idea we got tons of evidence? A riot. What evidence have we got? They keep saying we keep getting it. Would love to see it. All the "Cosby defenders" would agree he is guilty if they show the proof which really is proof.


1 ^ v • Reply • Share ›


 **Jessie** → jinarvada • 3 months ago  
 "I'm guessing" is right - no one knows what there is beyond what's already public. Demanding that evidence be presented outside of court is advocating for a "court of public opinion". Wouldn't you prefer due process?  
 1 ^ v • Reply • Share ›


 **FiddleRox** → Deebers1956 • 3 months ago  
 In other words, the defamation suits were set up like a "sting" operation! Make the claim with the intent to get him to deny the claims so that they can get him into a civil court where they can sue him (for money)!  
 Now why did you let that cat out of the bag?  
 3 ^ v • Reply • Share ›

 **Deebers1956** → FiddleRox • 3 months ago  
 Seriously ? How did you come up with that conclusion from what I said?  
 7 women have lawsuits against Cosby and 3 claim to have credible evidence.  
 ^ v • Reply • Share ›

 **FiddleRox** → Deebers1956 • 3 months ago  
 It was quite evident by what you had said.  
 1 ^ v • Reply • Share ›

 **HornOrSilk** → FiddleRox • 3 months ago  
 Oh the "they have nothing to gain" claim was a lie? So they had something to gain after all? Oh, yeah, but I'm sure we will hear they have nothing to gain once again...  
 1 ^ v • Reply • Share ›

 **FiddleRox** → HornOrSilk • 3 months ago  
 Pretty much. That's about right.  
 1 ^ v • Reply • Share ›

 **HornOrSilk** → jinarvada • 3 months ago  
 That's exactly the thing. We are told they have evidence and we should just believe it without seeing it -- so it is just another layer of accusation. Even if they have evidence, it could be something weak and inconclusive (and would serve as evidence for both sides). Many confuse evidence for proof -- evidence accumulates for proof, but evidence is not necessarily proof. So they could have all kinds of "evidence" which leads to no conclusion -- and yes, even going to a shrink 20 years later is evidence, but it is not proof and could be used by someone on the other side to discuss false memory syndrome and used as evidence by both sides. As it is, however, they keep saying they have evidence, keep saying believe, they have nothing (not even a court case) and yet they keep hiding what is necessary and have us believe they have nothing they want while withholding supposed evidence. Yeah, not working.  
 2 ^ v • Reply • Share ›

 **FiddleRox** → Deebers1956 • 3 months ago  
 "Cosby has been under investigation in PA since July"  
 Inaccurate!!  
 1 ^ v • Reply • Share ›

 **Deebers1956** → FiddleRox • 3 months ago  
 It's not inaccurate FiddleRox.... I know for a fact but maybe you should read the TMZ article for starters.  
 ^ v • Reply • Share ›

 **siscely beans** → Deebers1956 • 3 months ago

HAHAHA, you believe TMZ???????

1 ^ v • Reply • Share ›

Deebers1956 ↗ siscely beans • 3 months ago

HAHAHAHAHA!

you believe Jay Raskin and Son of Man?

HAHAHAHAHAHA!

No, I was only citing that article. If you read what I said "I know for a fact"

^ v • Reply • Share ›

FiddleRox ↗ Deebers1956 • 3 months ago

But no where does it actually say when the "investigation" began!

TMZ paraphrased Walt Hunter (of KYW CBS 3 in Philadelphia) when he stated in an article, dated Oct 23 2015, *"However, CBS 3 has confirmed the investigation was triggered last summer by the release of depositions in a civil case which had previously been sealed."*

The release that included partial segments of Cosby's deposition triggered an investigation. It does not say in June, July, August, or September when the "investigation" actually began! Thanks.

But we do know that Ferman had indicated in late September that she was "reviewing" the Constand case.

Also, around September 23, *"Constand's lawyer said Constand would cooperate in the new investigation if asked."*

So we can surmise that an "investigation" may have begun in late August or early to mid September. But NOT in July!

1 ^ v • Reply • Share ›

FiddleRox ↗ FiddleRox • 3 months ago

In addition, Brandy Betts (aka, RapelsNoJoke, among other handles) had a petition (albeit short lived) that attempted to pressure to investigate the Constand case. And Brandy Betts claims to be friends with Ms Constand. These facts suggest that no "investigation" was in progress back in July!

1 ^ v • Reply • Share ›

FiddleRox ↗ siscely beans • 3 months ago

Yep. TMZ who only stated *"The investigation began after a judge unsealed depositions in a civil case filed by a Pennsylvania woman ... this according to the CBS affiliate in Philadelphia."*

That could have been anytime after the depositions (which were only partially released) were released.

2 ^ v • Reply • Share ›

siscely beans ↗ FiddleRox • 3 months ago

That's the thing, and I know I've said this 100 times, but it's not that simple. Cosby is not a "man of the cloth".

## FROM OUR PARTNERS



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COMMONWEALTH OF  
PENNSYLVANIA  
COUNTY OF: MONTGOMERY

Magisterial District Number: 38-1-02  
MDJ: Hon. ELIZABETH MCHUGH  
Address: 7804 MONTGOMERY AVENUE  
ELKINS PARK, PA. 19027  
Telephone: (215)635-1535



POLICE CRIMINAL COMPLAINT  
COMMONWEALTH OF PENNSYLVANIA  
VS.

DEFENDANT: (NAME and ADDRESS):  
WILLIAM HENRY COSBY JR.  
First Name Middle Name Last Name Gen.  
8210 NEW SECOND STREET, CHELTENHAM, PA. 19027

NCIC Extradition Code Type

- ☒ 1-Felony Full ☐ 5-Felony Pend. ☐ C-Misdemeanor Surrounding States ☐ Distance: \_\_\_\_\_  
☐ 2-Felony Ltd. ☐ 6-Felony Pend. Extradition Determ. ☐ D-Misdemeanor No Extradition  
☐ 3-Felony Surrounding States ☐ A-Misdemeanor Full ☐ E-Misdemeanor Pending  
☐ 4-Felony No Ext. ☐ B-Misdemeanor Limited ☐ F-Misdemeanor Pending Extradition Determ.

DEFENDANT IDENTIFICATION INFORMATION

Docket Number	Date Filed 12/30/2015	OTN/LiveScan Number	Complaint/Incident Number 2015-2583	SID	Request Lab Services? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
GENDER <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	DOB 07/12/1937 First Name	POB PA Middle Name	Add'l DOB / / Last Name	Co-Defendant(s) <input type="checkbox"/>	Gen.
RACE <input type="checkbox"/> White <input type="checkbox"/> Asian <input checked="" type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	AKA				
ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown					
HAIR COLOR <input checked="" type="checkbox"/> GRY (Gray) <input type="checkbox"/> RED (Red/Aubn.) <input type="checkbox"/> SDY (Sandy) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> PLE (Purple) <input type="checkbox"/> BRO (Brown) <input type="checkbox"/> BLK (Black) <input type="checkbox"/> ONG (Orange) <input type="checkbox"/> WHI (White) <input type="checkbox"/> XXX (Unk./Bald) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> BLN (Blonde / Strawberry)					
EYE COLOR <input type="checkbox"/> BLK (Black) <input type="checkbox"/> BLU (Blue) <input checked="" type="checkbox"/> BRO (Brown) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> HAZ (Hazel) <input type="checkbox"/> MAR (Maroon) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> MUL (Multicolored) <input type="checkbox"/> XXX (Unknown)					
Driver License	State PA	License Number 24021828	Expires: 07/13/2004	WEIGHT (lbs.)	
DNA	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DNA Location		0	
FBI Number		MNU Number		Ft. HEIGHT In.	
Defendant Fingerprinted	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			6 0	
Fingerprint Classification:					

DEFENDANT VEHICLE INFORMATION

Plate #	State	Hazmat <input type="checkbox"/>	Registration Sticker (MM/YY)	Comm'l Veh. Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. same as Def. <input type="checkbox"/>
VIN	Year	Make	Model	Style	Color		

Office of the attorney for the Commonwealth ☒ Approved ☐ Disapproved because: \_\_\_\_\_

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 507)

KEVIN R STEELE

(Name of the attorney for the Commonwealth)

*[Signature]*

(Signature of the attorney for the Commonwealth)

12/29/2015

(Date)

I, SGT R SCHAFER / DET J REAPE / DET M SHADE

(Name of the Affiant)

27830 / #981 - 17288 / #32 - 7661 / #16

(PSP/MPOETC -Assigned Affiant ID Number & Badge #)

of CHELTENHAM TWP. / MONTGOMERY CO. DETS.

(Identify Department or Agency Represented and Political Subdivision)

PA0460500

(Police Agency ORI Number)

do hereby state: (check appropriate box)

1. ☒ I accuse the above named defendant who lives at the address set forth above  
☐ I accuse the defendant whose name is unknown to me but who is described as \_\_\_\_\_

☐ I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have therefore designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at [102] 8210 NEW SECOND STREET,  
(Subdivision Code) (Place/Political Subdivision)  
CHELTENHAM, PENNSYLVANIA

in MONTGOMERY  
County

[46]  
(County Code)

on or about MID - JANUARY TO MID - FEBRUARY 2004  
(Offense Date)



# POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 12/29/2915	OTN/LiveScan Number	Complaint/Incident Number 2015-2583
Defendant Name	First: WILLIAM	Middle: HENRY	Last: COSBY

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 – 213.7.)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input checked="" type="checkbox"/>	1	3125	A,1	of the	18	1	F2		
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	
PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone			
Statute Description (include the name of statute or ordinance): AGGRAVATED INDECENT ASSAULT									
Acts of the accused associated with this Offense: WILLIAM HENRY COSBY DID PENETRATE THE GENITALS OF THE COMPLAINANT WITH A PART OF HIS BODY WITHOUT THE COMPLAINANT'S CONSENT.									

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input type="checkbox"/>	2	3125	A,4	of the	18	1	F2		
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	
PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone			
Statute Description (include the name of statute or ordinance): AGGRAVATED INDECENT ASSAULT									
Acts of the accused associated with this Offense: WILLIAM HENRY COSBY DID PENETRATE THE GENITALS OF THE COMPLAINANT WITH A PART OF HIS BODY WHILE THE COMPLAINANT WAS UNCONSCIOUS.									

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input type="checkbox"/>	3	3125	A,5	of the	18	1	F2		
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	
PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone			
Statute Description (include the name of statute or ordinance): AGGRAVATED INDECENT ASSAULT									
Acts of the accused associated with this Offense: WILLIAM HENRY COSBY DID PENETRATE THE GENITALS OF THE COMPLAINANT WITH A PART OF HIS BODY AFTER COSBY SUBSTANTIALLY IMPAIRED THE COMPLAINANT'S POWER TO APPRAISE OR CONTROL HER CONDUCT BY ADMINISTERING DRUGS, INTOXICANTS OR OTHER MEANS FOR THE PURPOSE OF PREVENTING RESISTANCE.									





# POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 12/29/2015	OTN/LiveScan Number	Complaint/Incident Number 2015-2583
Defendant Name	First: WILLIAM	Middle: HENRY	Last: COSBY

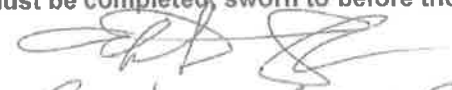
2. I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
3. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.
4. This complaint consists of the preceding page(s) numbered 1 through 3.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

**(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)**

DECEMBER 29, 2015

(Date)

  
Captain Schaffner #931  
(Signature of Affiant)

AND NOW, on this date

12/29/15

I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued.

38-1-12

(Magisterial District Court Number)

  
(Issuing Authority)



## **AFFIDAVIT OF PROBABLE CAUSE**

### **I. Introduction**

Andrea Constand (hereinafter "the victim") was employed as the Director of Operations for Temple University's women's basketball team between December 2001 and March 31, 2004 and, in that capacity, was introduced to Bill Cosby. In the months following their introduction, Cosby contacted the victim's Temple University office to discuss business-related matters. Eventually, the victim and Cosby exchanged personal phone numbers and developed what the victim believed to be a sincere friendship. Further, she considered Cosby, thirty-seven years her senior, to be a mentor, and described instances in which he invited her to his home for dinner, invited her to restaurants, invited her to events, introduced her to various people, and provided her with guidance and career advice.

The victim told investigators she had no interest whatsoever in a romantic relationship with Cosby, but described two separate incidents in which Cosby made sexual advances towards her. The first incident occurred several months after their initial meeting, when Cosby invited the victim to his home for dinner prepared by his private chef. When she arrived, she sat and spoke with Cosby near a fire. After about twenty minutes, the chef served her dinner, which she ate by herself, and she drank some red wine. After dinner, she and Cosby were sitting on the sofa when, without warning, Cosby reached over and touched her pants, her waist, and her inner thigh. With that, she dismissed herself to go to

the bathroom and gathered her things to leave. Before her departure, Cosby gave her a bottle of perfume and thanked her for little gifts she had brought him. The victim was embarrassed by this encounter. She never thought he would hit on her, especially since Cosby is much older than her father.

In the other incident, the victim went for a social visit to Cosby's Cheltenham home. She had consumed a couple glasses of wine and was talking to him when "out of the blue" Cosby unbuttoned her pants and began touching her. The victim leaned forward to stop him, at which point Cosby got up and went into his kitchen. The victim left ten minutes later with neither of them saying a word about what had just happened.

Despite these advances by Cosby, the victim trusted him and continued to accept his invitations to social and professional functions. For example, the victim attended a dinner at his home with a group of his friends and persons working in the Philadelphia restaurant community. She also attended a dinner at his Cheltenham home for a meeting with "academic people," including the President of Swarthmore College and professors from the University of Pennsylvania. She went to Cosby's New York City home to meet with one of Cosby's influential entertainment industry contacts. The victim also told police that she met Cosby two other times, albeit briefly, at his home and once at a casino in Connecticut. She reported that nothing inappropriate occurred during these events, all of which occurred before mid-February 2004.

## **II. Aggravated Indecent Assault at Cosby's Cheltenham Home**

On January 22, 2005, in a written statement, the victim told police that sometime between mid-January and mid-February of 2004, Cosby called her on her personal cell phone and invited her to his home at 8210 New Second Street, Cheltenham, Montgomery County, Pennsylvania. During the call, Cosby told her they were going to talk about the victim's future career plans. Cosby added that no one else would be present and that she should dress in comfortable clothing.

The victim arrived at the residence at about 8:45 PM. Cosby, dressed in a sweat suit, greeted her at the front door and let her in. Once inside, the two sat at a table near the front door and spoke about her future career plans. The victim told Cosby she felt "drained," and "emotionally occupied," and that she had been missing sleep. During the conversation, Cosby told her that he wanted her to relax.

Within the next ten to fifteen minutes, Cosby went upstairs and the victim went to the bathroom. The victim told police that when Cosby returned from upstairs, he had three blue pills in his hand. Cosby urged her to take the pills, saying to her, "[t]hese will make you feel good. The blue things will take the edge off." The victim asked if the pills were herbal and Cosby replied, "Yes. Down them. Put 'em down. Put them in your mouth," as he motioned for her to put the three blue pills into her mouth. Cosby placed the pills in the victim's hand and directed her to "take the water." She told Cosby she trusted him and then used the water to swallow the pills.

Cosby then told the victim to "taste the wine." When she resisted, and told him that she hadn't eaten anything that day, Cosby again directed her to "just taste the wine." In response, the victim took a couple sips of wine. The victim told investigators that after she ingested the pills, she and Cosby continued to talk at the table. However, within about twenty to thirty minutes of ingesting the pills, water, and wine, she began experiencing blurred vision and difficulty speaking. When she told Cosby how she was feeling, he instructed her to lie down and he assisted her to the couch. Cosby told her that he was "going to let [her] relax."

The victim described to the police the wide range of physical symptoms she experienced during this time. She said that she lost all strength in her legs, which felt "rubbery" and "like jelly." She could not see clearly because everything had become "blurry" and "dizzy." She felt "nauseous." She could not keep her eyes open, was not aware of any sounds, had no sense of time, and was "in and out."

Cosby did not sit on the sofa with her, but instead positioned himself behind her. Despite her impaired physical and mental condition, the victim was aware that Cosby was fondling her breasts, put his hands into her pants, and penetrated her vagina with his fingers. Cosby also took the victim's right hand and placed it onto his erect penis. The victim told investigators that she did not consent to any of these acts, and was unable to move or speak during the assault. She described her condition as "frozen" and "paralyzed."

The victim awoke in the Cosby home at about 4:00 AM the next morning.

She discovered that her sweater was bunched up, and that her bra was undone and had been moved above her breasts. She said that when she got up and walked towards the door she saw Cosby, dressed in a robe, standing at the bottom of the staircase. Cosby gave her a muffin, walked to the front door, opened it, and said, "Alright." The victim told investigators she left the residence without saying anything.

### **III. Victim's Return to Canada and Disclosure**

Within three months of the assault, in March of 2004, the victim left the Philadelphia area and returned to her parents' home in Canada. Thereafter, the victim's mother, Gianna Constand, noticed changes in her daughter. She said there was a change in her daughter's personality and that she had isolated herself from her friends. Mrs. Constand also told investigators that her daughter had sleep disturbances that included nightmares and instances in which she would scream in her sleep. Mrs. Constand attempted to find out from her daughter what was wrong with her but the victim simply did not answer.

Eventually, on the morning of Thursday, January 13, 2005, the victim told her mother that Cosby had sexually assaulted her. Shocked and devastated upon hearing details of the sexual assault of her daughter, Mrs. Constand called Cosby on the telephone to confront him. Mrs. Constand, who had spoken to Cosby on the telephone multiple times in the past, failed to reach him on this occasion and instead left a voicemail message. The Constans reported the

incident to the Durham Regional Police Service in Ontario, Canada.

#### **IV. Mrs. Constand's Conversations with Cosby**

On January 16, 2005, Cosby returned Mrs. Constand's call. During the two-and-a-half-hour conversation that ensued, she pointedly asked Cosby what he had done to her daughter and what he had given to her. In response to the latter question, he told her that he would "have to look at the prescription bottle." He told Mrs. Constand that he could not read the label because of an eye condition, but that he would write down the name of the medication on a piece of paper and mail it to her.

Although Cosby did not identify the drug he gave to the victim, during the same conversation he admitted fondling the victim's breasts, digitally penetrating her vagina, and placing the victim's hand on his penis for sexual gratification. Through these admissions to Mrs. Constand, Cosby directly corroborated the victim's report concerning these actions. In the same call, Cosby apologized and offered to cover any expenses associated with therapy.

Mrs. Constand reported to investigators that Cosby called her again, the next day, on January 17, 2005, and that she recorded this call. During the conversation, Cosby asked if the victim was still pursuing her interests in broadcasting and expressed his interest in assisting the victim financially with any educational goals. At one point, Mrs. Constand asked Cosby if he was going to send her "that piece of paper with the name of that stuff or not" to which he responded, "[w]e can talk about what you asked for later." Cosby was evasive on

the subject of the identification of the pills and quickly redirected their conversation to travel plans for Mrs. Constand and the victim. Cosby asked Mrs. Constand if "they", meaning her and the victim, would be willing to travel "to a city so that [they could] have a meeting?"

According to Mrs. Constand, on the next day, January 18, 2005, a representative of Cosby contacted the victim and attempted to arrange the meeting, which Cosby requested the day before. The representative explained that Cosby would pay to fly the victim and her mother to Florida. Mrs. Constand and the victim did not accept this offer. Cosby's representative provided a statement to investigators on February 4, 2005 in which he confirmed that Cosby had directed him to contact Mrs. Constand to arrange for her, and the victim's, travel to Florida. He also revealed that he had made similar arrangements for other women on Cosby's behalf.

## **V. Criminal Investigation and Cosby's Statement to Police**

On January 14, 2005, a representative of the Durham Regional Police Service forwarded the victim's report of this incident to the Philadelphia Police Department Special Victim's Unit. When Philadelphia Police learned that Cosby's home, the incident location, was actually in Cheltenham Township in Montgomery County, they contacted the Cheltenham Township Police Department and forwarded to them a copy of the victim's initial report. Thereafter, the Cheltenham Township Police Department and the Montgomery County Detective Bureau commenced a joint investigation.



On January 26, 2005, Cheltenham Township Police Chief John Norris, Cheltenham Police Detective Richard Schaffer and Montgomery County Detective Lieutenant Richard Peffall interviewed Cosby in the presence of Cosby's legal counsel.

Cosby described for the investigators his version of what took place at his home on the evening in question. He stated that he had no intention of having the victim spend the night at his house. He said that upon the victim's arrival at his home, the two had a conversation about issues she was having and her resulting tension and inability to sleep. He admitted going to his room and coming down with pills for her to take. He told the investigators the pills were over-the-counter Benadryl and that he gave her one whole pill and one-half pill. When investigators asked Cosby about his personal usage of the pills, he told them he typically took two whole pills and acknowledged they would make him drowsy and go to sleep right away. He added that he would not take the pills and go out and perform. Cosby told investigators that these Benadryl pills were in a pop-out pack and that he carried them with him. Cosby admitted that he did not tell the victim, on that night or anytime thereafter, the true identity of the pills.

Cosby said that after the victim took the pills, they began to pet (touching and kissing) and then he touched her bare breast and her private parts (genitalia). Cosby said the victim never told him to stop, never pushed him away, never told him her vision was blurred and never said she felt paralyzed or affected by the Benadryl. In short, Cosby described the incident as a

consensual sexual encounter. Cosby said that he went to bed after the incident and woke sometime later in the morning to find the victim awake. He said they talked, he gave her a blueberry muffin and some tea, and then she left.

Cosby then went on to tell the police about his history with the victim. He acknowledged that the victim viewed him as a mentor and that he encouraged that type of relationship. However, contrary to the victim's description of their prior relationship, Cosby said it could be characterized as both social and romantic. He told the investigators that prior to this January 2004 incident, there were several instances in which the two "petted and kissed." He said he never had intercourse with the victim because he "like[d] the petting the touching." When directly asked if he ever had sexual intercourse with the victim, Cosby gave the unusual answer, "never asleep or awake."

Investigators also asked Cosby about the content of his telephone conversations with Mrs. Constand after she learned of this incident. Cosby said that he told Mrs. Constand "I think I gave [the victim] some pills." He also confirmed that when Mrs. Constand asked him the name of the pills he gave the victim, he told her that he would send the name of the drug to her on a piece of paper. Cosby said he told Mrs. Constand he touched the victim's breasts and vagina, but "guarantee[d] her that there was no penile penetration."

Cosby also told investigators what Mrs. Constand said during that first telephone conversation about the impact of the incident on the Constands. According to Cosby, Mrs. Constand said to him that "it is something a mother never hopes will happen to their daughter and that she did not know how long it

would take the victim, and her, to heal.” Cosby told investigators he apologized twice and asked Mrs. Constand twice what she wanted him to do. According to Cosby, she said there was nothing he could do and that his apology was enough. Cosby told investigators that he called back again later and offered to “pick up the tab” for the victim to attend graduate school. Cosby also stated that he attempted to arrange for them to meet him in Florida at a hotel so they could “iron out whatever these problems happen to be.”

#### **VI. District Attorney Review**

The initial investigation into this incident was reviewed by former District Attorney Bruce L. Castor, Jr. and resulted in the issuance of a February 17, 2005 Press Release, which announced that no criminal charges were forthcoming. Castor made it clear, however, in the Press Release, that he would “reconsider th[is] decision should the need arise.”

#### **VII. Civil Action Against Cosby for Battery and Assault**

On March 8, 2005, the victim, assisted by private counsel, Bebe H. Kivitz, Esq., Ann C. Lebowitz, Esq., and Dolores M. Troiani, Esq., initiated a civil claim in the United States District Court for the Eastern District of Pennsylvania. The civil cause of action asserted against Cosby claimed battery, sexual assault, intentional infliction of emotional distress, and other related claims with regard to the incident previously investigated by the District Attorney’s Office. The civil case was settled on July 13, 2006.

### **VIII. Reopening of Criminal Investigation**

As the result of an Order issued by the federal judge overseeing the victim's civil case against Cosby, portions of depositions he gave in the suit were made public for the first time in July of 2015. The release of these depositions generated a great deal of publicity, as well as a number of public claims by women who alleged Cosby had assaulted them under circumstances similar to those reported by the victim. These events prompted the Montgomery County District Attorney's Office, now led by District Attorney Risa Vetri Ferman, to review the statute of limitations regarding potential criminal offenses committed by Cosby against the victim. District Attorney Ferman determined that under Pennsylvania law, prosecution for Aggravated Indecent Assault must be commenced within twelve years after the offense is committed. As such, the statute of limitations had not yet expired, and the investigation was reopened on July 10, 2015.

As a part of the reopened investigation, a formal written request was made by District Attorney Risa Vetri Ferman upon Dolores Troiani, Esq. for copies of her files related to the civil action, including depositions. In addition, investigators re-interviewed certain witnesses who had given statements in 2005. During a re-interview of Mrs. Constand, she told investigators that in her initial confrontation of Cosby by telephone, she said to him "you are a very sick man." According to Mrs. Constand, Cosby agreed with that accusation and repeatedly

apologized. He went on to tell her that he "wanted to call [the victim] and see how she was and he wanted to meet and make arrangements in Florida to discuss an arrangement that was going to make everybody happy." Cosby also asked her whether she had called the police.

Investigators also re-interviewed the victim because she had not requested that the criminal investigation be re-opened. She told investigators she would cooperate if asked to do so.

## **IX. Civil Depositions**

Upon review of the civil depositions requested of Dolores Troiani, Esquire, investigators determined that the victim testified under oath in her civil case on September 27 and 28, 2005. As part of her sworn account of the incident, the victim testified concerning the details of the sexual assault. She said, in pertinent part, that upon feeling the effects of the pills, she told Cosby what was happening to her and he moved her to the couch. After some time, she felt her body being jostled and felt Cosby's hand inside her vagina. She also testified that Cosby placed her hand upon his penis.

Investigators determined that Cosby's depositions took place on September 28, 2005, September 29, 2005, March 28, 2006, and March 29, 2006. In testimony under oath, Cosby testified that he developed a romantic interest in Constand the very first time he saw her at the Temple basketball game and that he found her good looking. He testified that before he acted upon that interest, he needed to develop a friendship with her.

Concerning the incident at issue, he acknowledged inviting the victim to his Cheltenham home. He said that after some initial conversation, he went upstairs and got pills, "brought them down," and "offered them to [the victim]." Cosby testified that he gave the victim three halved pills, which he described as "three friends to make [her] relax." This is contrary to his statement to police, in which Cosby said he gave her "one whole and then one...half." Cosby, in his deposition, said he gave the pills to the victim because he believed, "they might help take some of the stress away." He testified, as reported to the police, that after the administration of the pills, he lifted the victim's bra so their skin could touch, got behind the victim "in a spooning position," and, while in that position, he went "inside of her pants" and digitally penetrated the victim's vagina.

During Cosby's September 29, 2005 deposition he acknowledged that he had, in the past, obtained seven prescriptions in his own name for Quaaludes that he never took, nor ever intended to take, himself. During this line of questioning, the following exchange took place between Dolores Troiani, Esq. and Cosby:

Troiani: When you got the Quaaludes, was it in your mind that you were going to use these Quaaludes for young women that you wanted to have sex with?

Cosby: Yes.

(*Constand v. Cosby*, 9/29/2005 Deposition, p. 71)

Cosby's attorney then objected to this question and stated, "Restrict it to the Jane Does." (*Constand v. Cosby*, 9/29/2005 Deposition, p. 71-72) Before being asked another question, Cosby changed his answer to, "I misunderstood. Woman, meaning [her], and not women." (*Constand v. Cosby*, 9/29/2005

Deposition, p. 72)

Cosby then specifically testified about an occasion in which he met a woman backstage, gave her Quaaludes and then had sex with her. Further, when asked why he didn't ever take Quaaludes himself, he responded that he gets sleepy. He stated that he knew that Quaaludes are a depressant and recognized that Quaaludes were, at the time, the drug of choice young people were using to party. He said, "there were times he wanted to have them just in case." (*Constand v. Cosby*, 9/29/2005 Deposition, p. 70) Cosby admitted that he knew at the time it was illegal for him to give Quaaludes to another person. (*Constand v. Cosby*, 9/29/2005 Deposition, p. 66)

## **X. Conclusion**

Following their initial meeting at Temple University, Cosby developed a romantic interest in the victim, an interest she did not share. In his pursuit of the victim, Cosby promoted his role as mentor and someone who could offer her life and career guidance. He invited her to a number of social and professional events at his home and elsewhere. According to the victim, on two of these occasions, Cosby attempted to touch her inappropriately. Each time, she immediately shut down his advances, refusing any sexual relationship with Cosby.

Between mid-January and mid-February 2004, Cosby invited the victim to his home in Cheltenham, Montgomery County, for the purported purpose of speaking to her about her future career plans. This was consistent with the role

of mentor that he had fostered since meeting the victim. Upon her arrival at his home, Cosby and the victim sat and spoke for about 10-15 minutes, at which time the victim went to the bathroom.

It is undisputed that Cosby left the area where they were and returned shortly with blue pills. The victim said there were three pills. Cosby told police that he gave her one whole pill and one half-pill. Later, in his deposition, Cosby testified that he gave her three halves. When the victim asked if they were herbal, Cosby said, "yes." Cosby told police she did not ask about the pills, but admits he never told her what they were. According to the victim, Cosby told her they would make her feel good and "take the edge off." Cosby also said they were "three friends to help make her relax." Unfortunately, the victim trusted Cosby. At his urging, she swallowed the pills with water. Even if the pills were Benadryl, as Cosby alleged, he acknowledged that the drug makes him drowsy and puts him to sleep "right away."

Cosby also successfully urged the victim to "taste the wine," even though she told him she had not had much to eat. Investigators know that alcohol is frequently used as a precursor to sexual assault. Alcohol can be used to incapacitate victims by itself or in combination with over-the-counter and/or illicit drugs. Based upon the facts described herein, we have concluded that when Cosby set out the glass of wine and then, despite the victim's objections, urged her to drink, he did so believing her ingestion of the wine would contribute to her incapacity. That the victim's incapacity was his intended result is made even clearer by his use of both alcohol and drugs.



Cosby knew that his two prior sexual advances were blocked by the much younger, athletic victim. He knew that further attempts at sexual conduct would likewise be unsuccessful unless he was able to prevent her from resisting. He knew the victim could become sedated, and likely rendered incapable of resistance, by her ingestion of wine and Benadryl, or wine and another substance, known only to Cosby, with similar effects.

According to the victim, within twenty to thirty minutes of ingesting the pills, water, and wine, she experienced blurred vision and difficulty speaking, which she related to Cosby. She further said her legs felt "rubbery" and "like jelly," and everything was "blurry" and "dizzy." Also, she could not keep her eyes open and was nauseous. While in this vulnerable state, Cosby moved her to a nearby couch.

It is undisputed that Cosby fondled her breasts, put his skin next to hers and digitally penetrated her vagina. The victim subsequently reported Cosby's sexual assault to the police, including his digital penetration. She also testified about the assault and penetration during her deposition. At no time did the victim provide her consent. She could not move or speak and was, in her words, "frozen" and "paralyzed." It is clear that what the victim was led to believe was an herbal remedy had directly contributed to her impaired condition. Because she was fluctuating in and out of consciousness, the victim was legally incapable of consenting to Cosby's actions.

The following language by the Pennsylvania Supreme Court regarding consent unequivocally supports the above proposition: "[b]ecause the evidence

supports the findings that the victim was intermittently unconscious throughout the assault and was at all relevant times in such impaired physical and mental condition so as to be unable to knowingly consent, her submission to [sexual fondling and penetration] was involuntary.” *Commonwealth v. Erney*, 698 A.2d 56, 59 (Pa. 1997). Likewise, the evidence here demonstrates that the victim’s substantially impaired condition prevented her ability to consent, or even defend herself from Cosby’s sexual assault.

In further support of our conclusion that Cosby planned to sexually assault the victim once she was sedated and rendered incapacitated, we considered, among other things, Cosby’s deposition testimony concerning prescription Quaaludes. Constrained by the topical parameters of the deposition, he testified that on one prior occasion, he gave a woman Quaaludes in anticipation of having sex with her. Due to the fact that Cosby obtained seven separate prescriptions for Quaaludes that he did not personally ingest, nor ever intended to personally ingest, we believe it is likely he gave the drugs to other persons, including other women he planned to have sex with. This conclusion is supported by the fact that many women have recently come forward to publicly accuse Cosby of drugging and sexually assaulting them.

Concerning the night of this incident in early 2004, investigators are mindful of the fact that only Cosby knows what substances he gave the victim. Only Cosby knows whether the pills were indeed, Benadryl, as he alleged, or a prescription or illicit drug with even greater potential to render someone incapacitated. Only Cosby knew that the drug he gave the victim could impair

her ability to perceive, diminish her ability to remember, or render her useless as a witness against him.

One of the most significant factors investigators have considered is Cosby's evasive and conflicting identifications of the drug he gave the victim. According to the victim, she asked what the drug was and he told her it was herbal. Cosby denies this exchange ever took place. It is undisputed that Cosby told the victim's mother that he gave her some sort of prescription but that he could not recall what it was. He told her that he could not read the label on the bottle because of his poor eyesight. Cosby told Mrs. Constand he would write the name of the drug on a piece of paper and mail it to her, but he never did. Finally, Cosby told the police he gave the victim Benadryl, which is an over-the-counter medicine not dispensed in a prescription bottle as Cosby told Mrs. Constand. Cosby's deliberate efforts to conceal the nature of the pills he supplied to his unsuspecting victim are inconsistent with innocent behavior and demonstrate his consciousness of guilt.

Further indicative of Cosby's consciousness of guilt is the fact that, when confronted by Mrs. Constand over the telephone, he apologized to both her and the victim, while offering significant financial assistance. Cosby not only offered to pay for the victim's therapy, but also her graduate school tuition and expenses for travel to Florida. Investigators recognize that individuals who are falsely accused of sexual assault generally do not unilaterally offer generous financial assistance, and apologies, to their accuser and their accuser's family. To the contrary, such conduct is consistent with offenders who are seeking to make

amends for wrongful behavior and prevent involvement by law enforcement.

Finally, investigators identified two statements which they believe provide unusually compelling insight regarding Cosby's sexual relationships with women, including his assaultive behavior towards the victim. While speaking with Mrs. Constand, Cosby made sure that she understood there was no "penile penetration" involved. Presumably, Cosby considers lack of intercourse as a means to diminish his culpability and lessen the gravity of his sexual offenses. Secondly, during his statement to police, Cosby was asked whether he ever had sexual intercourse with Constand. He responded "never asleep or awake," inferring that either could be possible as a reasonable answer.

Upon examination of all the evidence, we believe there is probable cause that on the night of this incident in mid-January to mid-February of 2004, Cosby sought to incapacitate the victim by providing her with his "three friends" and some wine. He wanted to ensure that she would not rebuff his sexual advances as before, and he succeeded in doing so. As the victim lie on his couch, sedated and under the influence of the unknown substance he supplied and identified as an herbal, Cosby fondled her and digitally penetrated her vagina. Contrary to his assertion that she consented to this conduct, she could not do so. She was rendered unable to speak or even move, and left capable only to perceive aspects of this Aggravated Indecent Assault.

Based upon the foregoing, we respectfully request a warrant of arrest be issued for William H. Cosby, Jr., DOB: 7/12/1937, with violation of Pennsylvania Crimes Code Section 3125, Aggravated Indecent Assault,

particularly the subsections enumerated in the attached Criminal Complaint.

 #981

Sergeant Richard Schaffer #981  
Cheltenham Township Police Dept.



Detective James Reape #32  
Montgomery County Detectives



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## Walter M. Phillips Jr., 76, prosecutor of corrupt politicians



Walter M. Phillips was a tireless prosecutor remembered for going after mobsters and corrupt politicians. ED HILLE / File Photograph

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By **Jeremy Roebuck, Inquirer Staff Writer**

POSTED: February 10, 2015

Walter M. Phillips Jr., 76, a tireless prosecutor whose efforts to root out public corruption in the 1970s shook the foundations of Philadelphia's Democratic politics, died Saturday, Feb. 7, of complications from earlier open-heart surgery.

His career as a city, state, and federal prosecutor pitted him against New York mobsters and politicians such as former Pennsylvania State Sen. Henry J. "Buddy" Cianfrani.

His drive to pursue graft at all costs at times laid him low, such as when he turned his investigative zeal on officials close to the administration that appointed him - and later fired him - as a state special prosecutor charged with rooting out police and political corruption in the city.

Ironically, the Democratic machine that cast Mr. Phillips out of that job in 1976 recruited him four years later to run for attorney general and later district attorney. Both bids for public office were unsuccessful. Even later in life, colleagues said, Mr. Phillips' commitment to fairness in politics and the criminal justice system never wavered. He served on various state-appointed committees that advocated for establishment of drug and veterans' courts and helped usher in widespread reforms to Philadelphia courts.

"I never met, in public or private life, a guy with greater integrity than Wally," said former Gov. Ed Rendell, a close friend who picked Mr. Phillips to chair his administration's Commission on Crime and Delinquency. "He cared very much about doing things the right way for the right reason. He was as impactful a person in the public arena as you can be without being an elected official."

Inquirer editor William K. Marimow, who covered Mr. Phillips' last days as the state's special prosecutor in the 1970s, described him as an "idealist with high ideals."

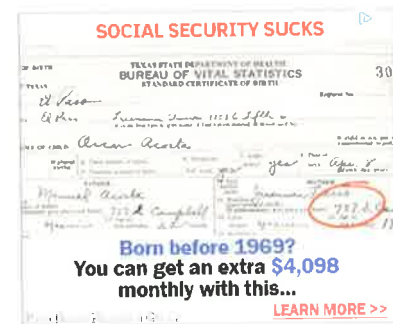
"He was a guy that really, truly believed in integrity in government and a criminal justice system that dispensed equal justice for everyone."

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Marimow said. "And, unlike a lot of other principled Philadelphians, he wasn't afraid to trumpet what he believed."

Integrity and public service were ideals instilled in Mr. Phillips at a young age. His father, Walter Sr., was one of the civic leaders who led a reform movement in the late 1940s and early '50s that led to the election of Mayors Joseph S. Clark Jr. and Richardson Dilworth.

Growing up in Torresdale on what was then a 26-acre farm on the Delaware River, the future prosecutor had other career ambitions.

In his teens and early 20s, Mr. Phillips was a Major League pitching prospect. He was a star pitcher for Princeton and signed a pro contract with the Houston organization when it was the Colt .45s and before it became the Astros. A shoulder injury ended those pro baseball dreams.

Throughout his life, Mr. Phillips remained a dedicated athlete - as likely in recent years to be defeating young lawyers one-third his age on the tennis court as to be spotted preparing himself for his next marathon. Three years ago, Mr. Phillips headed to Tanzania for an epic climb up Mount Kilimanjaro, said his wife, actress and author Valerie Ogden Phillips.

"You couldn't keep him still," she said. "He loved sports and was constantly on the go."

After his youthful baseball ambitions were sidelined, Mr. Phillips went to law school and returned to Philadelphia in 1966, taking a job with newly elected District Attorney Arlen Specter. He joined a vanguard of prosecutors pursuing public-corruption cases after decades of inaction.

His successes soon earned him a job in the U.S. Attorney's Office in Manhattan, where he worked alongside a young Rudy Giuliani. Mr. Phillips' pursuit of Bill Bonanno, son of New York mob boss Joseph Bonanno, attracted the attention of author Gay Talese and landed Mr. Phillips a place in Talese's best-selling book *Honor Thy Father*.

But it was Pennsylvania Gov. Milton J. Shapp's decision to appoint Mr. Phillips to investigate corruption among Philadelphia police and public officials in 1974 that cemented his public profile as an anticorruption scourge.

"The thing with Wally is that he viewed everything as a crusade," Rendell said. "When he was convinced he was right - and he was almost always convinced he was right - he was always passionate about what he was doing and what the end goals were."

In two years, Mr. Phillips brought 59 corruption cases. However, his efforts at prosecution were often stymied by the courts and members of the city's political and judicial establishment who feared their old way of doing business was coming to an end.

Throughout much of the period, Mr. Phillips' biggest adversary was Cianfrani. The powerful Democratic state senator eventually persuaded the state attorney general to fire Mr. Phillips in 1976 for leaking stories to the press.

"If he can't get me," Cianfrani gloated at the time, "what kind of investigator is he?"

Booted from his job, Mr. Phillips sent his case file on the senator to federal prosecutors, who sent Cianfrani to prison for five years on racketeering, bribery, and obstruction-of-justice charges.

When city Democrats later selected Mr. Phillips to run for district attorney in 1989, Cianfrani, then a ward leader, begrudgingly endorsed him.

"If Hitler were the endorsed candidate, I would support him," he told *The Inquirer* that year.

Mr. Phillips lost the election and left his ambitions for elected office behind. He focused his attentions on influencing the justice system from spots on various government commissions and committees.

He continued to work in private practice for decades, most recently at the Center City law firm Obermayer Rebmann Maxwell & Hippel. Even there, firm chairman Thomas A. Leonard said, he was known to call up local and federal prosecutors to offer them pointers on pursuing corruption cases.

"He just thought that the privilege of public service required that you do it with total and complete integrity," Leonard said. "You focus every fiber of your body on doing what's right and just. When someone violated that public trust, in his mind, you had to go after them."

In addition to his wife, Mr. Phillips is survived by his children, Graham Phillips and Serena Sterling; three grandchildren; and siblings Anna Sofaer and Francis Phillips.

A celebration of his life will be held at noon Saturday, May 2, at his family farm in Solebury.

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