

From: Bruce Castor <bcastor679@gmail.com>
Sent: Wednesday, September 23, 2015 1:30 PM
To: Ferman, Risa
Subject: Cosby Speculation
Attachments: Cosbypr rev.doc; ATT00001.htm

September 23, 2015

Dear Risa,

I certainly know better than to believe what I read in the newspaper, and I have witnessed first hand your legal acumen. So you almost certainly know this already. I'm writing to you just in case you might have forgotten what we did with Cosby back in 2005. Attached is my opinion from then.

Once we decided that the chances of prevailing in a criminal case were too remote to make an arrest, I concluded that the best way to achieve justice was to create an atmosphere where Andrea would have the best chance of prevailing in a civil suit against Cosby. With the agreement of Wally Phillips and Andrea's lawyers, I wrote the attached as the ONLY comment I would make while the civil case was pending. Again, with the agreement of the defense lawyer and Andrea's lawyers, I intentionally and specifically bound the Commonwealth that there would be no state prosecution of 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. Wally was speaking for Cosby's side at the time, but he was in contact with Cosby's civil lawyers who did not deal with me directly that I recall. I only discovered today that Wally had died. But those lawyers representing Andrea civilly, whose names I did not remember until I saw them in recent media accounts, were part of this agreement because they wanted to make Cosby testify. I believed at the time that they thought making him testify would solidify their civil case, but the only way to do that was for us (the Commonwealth) to promise not to prosecute him. So in effect, that is what I did. I never made an important decision without discussing it with you during your tenure as First Assistant.

Knowing the above, I can see no possibility that Cosby's deposition could be used in a state criminal case, because I would have to testify as to what happened, and the deposition would be subject to suppression. I cannot believe any state court judge would allow that deposition into evidence, nor anything derived therefrom. In fact, that was the specific intent of all parties involved including the Commonwealth and the plaintiff's lawyers. Knowing this, unless you can make out a case without that deposition and without anything the deposition led you to, I think Cosby would have an action against the County and maybe even against you personally. That is why I have publicly suggested looking for lies in the deposition as an alternative now that we have learned of all these other victims we did not know about at the time we had to make the go, no-go decision on arresting Cosby. I publicly suggested that the DA in California might try a common plan scheme or design case using Andrea's case as part of the *res gestae* in their case. Because I knew Montgomery County could not prosecute Cosby for a sexual offense, if the deposition was needed to do so. But I thought the DA in California might have a shot because I would not have the power to bind another state's prosecutor.

Some of this, of course, is my opinion and using Cosby's deposition in the CA case, might be a stretch, but one thing is fact: the Commonwealth, defense and civil plaintiff's lawyers were all in agreement that the attached decision from me stripped Cosby of his Fifth Amendment privilege against self-incrimination, forcing him to be deposed. That led to Cosby paying Andrea a lot of money, a large percentage of which went to her lawyers on a

contingent fee basis. In my opinion, those facts will render Cosby's deposition inadmissible in any prosecution in Montgomery County for the incident that occurred in January 2004 in Cheltenham Township.

Bruce

Bruce L. Castor, Jr.
Commissioner
Montgomery County, PA