

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH** : **No. CR-517-2008**  
**vs.** : **CRIMINAL**  
: **Motion Re: Admission**  
**PATRICK HAUGHT,** : **of Other Crimes**  
**Defendant**

**OPINION AND ORDER**

Defendant is accused of the offenses of aggravated indecent assault of a child, indecent assault and corruption of minors. The offense occurred around Thanksgiving of 2007 when the child, J.T. was eight years old.

Children and Youth received a report on the matter around December 7, 2007, and interviewed the victim on December 18, 2007. Defendant was 18 years old at the time of the offense.

The way the offense came to the attention of authorities was that Joel Lewis, an intern with Lycoming County Mental Health and Retardation, visited the victim's family because the victim's brother was a client of Mr. Lewis. Defendant was living with the victim's family at the time. Mr. Lewis innocently asked J.T. how she liked having Defendant live with the family. J.T. said she didn't like it, because Defendant held her upside down so that her pants came off and touched her when she goes to the bathroom. Mr. Lewis was a mandatory reporter so he reported this to this supervisor.

When the young victim was interviewed further she said Defendant came to her bedroom when she was getting ready to go to bed and that he pulled down her pants and touched her in the "private area." He touched her skin, like he was rubbing it. The victim also said Defendant's finger entered into her private and it felt like he was poking her. She

said it felt like two fingers were inside of her.

When Defendant was initially confronted by Children and Youth caseworker Rhonda McDonald and Detective William Weber, he admitted he started living with the victim and her family on November 5, 2007, but he denied touching the victim.

Defendant was again interviewed by Rhonda McDonald and Detective Weber on February 27, 2008. On this occasion he made an incriminating statement to the investigators. He stated his aunt told him to check on the victim, and he told her to go to bed. He claimed the victim jumped on him, doing a flip, and her pants came down. He admitted he sat her down and touched her private area. While admitting he sexually touched the victim's private area, he denied digital penetration of her vagina. When pressed on this issue, Defendant said it was possible but didn't think there was actual penetration by his fingers. In his statement to the investigators, Defendant also made incriminating statements acknowledging he was upset with himself for doing this because the child looked up to him. Defendant also admitted to having fantasies about sexual contact with females, including young girls ages 7-8.<sup>1</sup>

The Commonwealth wants to offer evidence at trial about Defendant's prior criminal acts when he was a juvenile. Defendant admitted to and was adjudicated delinquent for involuntary deviate sexual intercourse and two counts of indecent assault. The adjudication hearing occurred on July 18, 2003, before Judge Nancy Butts. Defendant was age 13 at the time.

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<sup>1</sup> It should also be noted that it is the Court's understanding that this offense occurred approximately three weeks after Defendant was released from his various placements through the Juvenile Court system. He was in placements, including foster homes and shelter care, until this time frame.

The Court reviewed a transcript of Defendant's admission to Lycoming County Family Court Master Gerald Seevers on May 21, 2003. The involuntary deviate intercourse concerned Defendant putting his penis in the anal area of another boy around his age and the boy doing the same to him.

The indecent assault conduct occurred with two young girls, S.H. and F.P., who were around ages 8 and 10 at the time. The girls, like the victim in the instant case, were relatives of the Defendant, and Defendant was living with them at the time. From the reports provided by the Commonwealth in support of its motion, it appears that the victims were Defendant's half-sister and stepsister.<sup>2</sup> The offenses appeared to cover a time frame from 1999-2003.

Defendant admitted he was playing games with the girls and touched their vagina with his hands. He said the girls would take their pants off for him to do this. Defendant did not admit actual digital penetration and the Commonwealth accepted his admission as to each girl for indecent assault.

The Court finds there is substantial similarity between the touching of the alleged victim in this case and the earlier incidents with S.H. and F.P. In each, it appears Defendant took advantage of a young female family member he had access to and he touched their vaginal area with his hands after pulling their pants and underwear off. Thus, there is relevance to this evidence. However, in weighing the probative value and the prejudice which could occur with the admission of this evidence, the Court must review the actual need for the evidence in light of the other evidence in this case.

At jury selection in this case, the Court believes Defendant's attorney

indicated that Defendant admitted touching J.T. in a sexual manner, and was only denying the allegation of digital penetration of the victim's vagina. Therefore, the issue at trial would appear to be whether the touching went beyond indecent assault into a penetration of the victim's vagina required for aggravated indecent assault. Likewise, in his statement to Rhonda McDonald and Detective Weber Defendant admits the conduct of indecent assault. Since the prior acts of indecent assault did not include digital penetration, they are most relevant to the indecent assault charge, to which Defendant has made admissions, and it cannot be said that the Commonwealth's need for the evidence is significant. If the prior acts included digital penetration, the relevance of these acts would have been greater.

For these reasons, the Court at this time will deny the Commonwealth's motion. However, if the evidence at trial is different than what the undersigned perceives it will be, such as Defendant testifies or offers evidence at trial claiming accident or mistake or denying that the touching was for his sexual gratification, the trial judge is free to change or modify this ruling and consider admitting this evidence in rebuttal.

According, the following is entered:

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<sup>2</sup> In his statement to Master Seevers, Defendant referred to the girls as his cousins.

**ORDER**

AND NOW, this \_\_\_\_ day of February 2009, the Court DENIES the Commonwealth's motion to admit evidence of Defendant's other crimes or bad acts. As stated in the accompanying Opinion, the trial judge may review and reconsider this ruling depending on the events at trial.

By The Court,

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Kenneth D. Brown, P.J.

cc: Judge Nancy L. Butts  
Mary Kilgus, Esq. (ADA)  
William Miele, Esq. (Chief Public Defender)  
Gary Weber, Esquire  
Work File