

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA :  
 :  
 vs. : No. CR-1296-2016  
 :  
 PAUL MATLOSZ, :  
 :  
 Defendant : Motion for Discovery

**OPINION AND ORDER**

Defendant is charged with numerous counts of endangering the welfare of children (50 counts), numerous counts of corruption of minors (50 counts) and numerous counts of indecent assault (50 counts).

The Commonwealth alleges that from May 1, 2013 to approximately May 31, 2014, when the victim was between 13 and 14 years old, Defendant showed the victim child pornography, watched the pornography with the victim and then fondled the victim over the victim's clothing.

The Commonwealth alleges that at the time, Defendant was 23 or 24 years old and had met the victim through the Christian Church of Cogan Station Youth Group. Defendant transported the victim to and from church in a vehicle belonging to Defendant's parents. During the rides, Defendant allegedly reached over and placed his hand on the victim's crotch over his pants. Incidents of this type of fondling occurred approximately 50 to 60 times both in the vehicle and at Defendant's residence.

The victim "slept over" at Defendant's house several times and Defendant would make him take his shirt off and/or his pants and have him walk around topless in his

boxers. There were a few times where Defendant would have the victim lay beside him wearing only his boxers and cuddle with him. There were approximately five to six occasions where Defendant reached into the victim's pants inside the victim's underwear and touched his bare penis while he was sitting in a chair in Defendant's room.

Defendant is alleged to have groomed the victim over time. Defendant is alleged to have bought the victim "things like clothing and other small items as his family never had money." Sometimes when the victim would have an erection, Defendant would place his hand on it and comment saying "wow, you're so hard."

Before the Court is Defendant's motion for discovery of the victim's juvenile delinquency records after JV-178-2015. Defendant is requesting a copy of the written allegation along with the affidavit of probable cause, the Pennsylvania State Police incident reports and the adjudicatory hearing and/or dispositional hearing orders. The victim was the subject of a written allegation filed in Juvenile Court on June 29, 2015. The victim was alleged to have committed the following offenses, which if the victim was an adult, would have constituted crimes: criminal attempt-rape of a child, rape of a child, and indecent assault of a person less than 13 years of age. The victim, on or about September 3, 2015 tendered an admission to the indecent assault. By adjudicatory/dispositional hearing order entered on December 22, 2015, the victim was adjudicated delinquent and in need of treatment. He was placed at a residential treatment facility.

According to the affidavit of probable cause in this case, while the victim was committed at the facility, he reported the alleged incidents involving Defendant. The report

was made on or about April 28, 2016. The victim had been committed to the facility approximately five months earlier in December of 2015.

Defendant seeks the “juvenile records” for the purpose of attacking the credibility of the victim. Specifically, Defendant claims that the victim made up the allegations and/or fabricated the allegations against the defendant “to obtain favorable treatment or sympathy in his delinquency case.”

Pretrial discovery and inspection is governed by Pennsylvania Rule of Criminal Procedure 573. In this particular case, Defendant identifies specific evidence and argues that its disclosure would be in the interest of justice. PA. R. CRIM. P. 573(B)(2)(iv). Defendant has the burden of proving that his request for the documents at issue is material to the preparation of his defense, the request is reasonable and the information disclosed by the request would be in the interests of justice. *Commonwealth v. Garcia*, 72 A.3d 681, 684 (Pa. Super. 2013).

In order to prove “the requested information is material and reasonable, a defendant must show a reasonable probability that the information gained from the discovery would lead to evidence that would exonerate him. More than a mere assertion that the information disclosed might be helpful is necessary.” *Id.* (citations omitted).

The court concludes, contrary to what Defendant claims, that his discovery request is not material to the preparation of his defense or a reasonable request. Furthermore, the court concludes that the disclosure would not be in the interest of justice. Simply put, the evidence is not at all relevant to Defendant’s claims.

Evidence is relevant if it has “any tendency to make a fact more less probable than it would be without the evidence.” *Commonwealth v. Murphy*, 2018 PA Super 70, 2018 WL 1441878, \*2 (March 23, 2018)(citing Pa. R.E. 401-02).

“The credibility of a witness may be impeached by any evidence relevant to that issue, except as otherwise provided by statute or [the] rules.” *Id.* (quoting Pa. R.E. 607 (b)).

What the victim reported after his juvenile proceedings had been concluded and he had been placed is not at all relevant to Defendant’s claim that the victim made up the allegations to obtain favorable treatment or sympathy in his juvenile case. The information could not be used in any manner to attack the credibility of the victim on the basis of bias in favor of the Commonwealth. Defendant did not receive favorable treatment in his juvenile case as a result of his accusations against Defendant. The victim had already been adjudicated delinquent and placed as a result of a dispositional hearing. The victim reported the alleged abuse while in counseling after he was placed. Defendant has not convinced the court that the underlying facts and records of the victim’s juvenile proceedings are relevant to these proceedings.

Nothing in this ruling, however, precludes Defendant from questioning the victim regarding the circumstances in which he revealed the alleged abuse by Defendant. Defendant also may renew his request if the victim’s testimony “opens the door” to such evidence. “A litigant opens the door to inadmissible evidence by presenting proof that creates a false impression refuted by otherwise prohibited evidence.” *Murphy*, supra

(quoting *Commonwealth v. Nypaver*, 69 A.3d 708, 716-17 (Pa. Super. 2013)(citations omitted)).

**ORDER**

**AND NOW**, this \_\_\_\_ day of April 2018, following a hearing and argument, the Court **DENIES** Defendant's motion for the disclosure of the victim's juvenile records.

By The Court,

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Marc F. Lovecchio, Judge

cc: Scott Werner, Esquire (ADA)  
James Protasio, Esquire  
Gary Weber, Lycoming Reporter  
The Honorable Marc F. Lovecchio