

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-1399-2022
	:	
vs.	:	
	:	CRIMINAL DIVISION
RODNEY LEE POUST,	:	
Defendant	:	

OPINION AND ORDER

This matter is before the Court on a Motion in Limine filed on August 7, 2023, by Phoebe Yates, Esquire, on behalf of the Commonwealth. The Motion seeks to preclude the testimony of Robert Saiers, Jr., a witness identified by the defense. Argument was held on August 9, 2023. Phoebe Yates, Esquire, appeared on behalf of the Commonwealth and Howard Gold, Esquire, appeared on behalf of the Defendant. At the time of the argument, counsel for the Defendant made an oral Motion in Limine seeking to preclude the testimony of the SANE nurse who treated the alleged victim.

I. MOTION TO PRECLUDE TESTIMONY OF ROBERT SAIERS

The Commonwealth’s Motion in Limine indicates that a transport order was signed directing Robert Saiers, Jr. to be transported from a State Correctional Institution for the purpose of testifying at the trial of the Defendant. Mr. Saiers is a former paramour of the alleged victim, WM, who has an active Protection from Abuse Order against Mr. Saiers. The Commonwealth avers that any testimony of Mr. Saiers would be improper character testimony and would not be relevant, nor would it assist the trier of fact. The Commonwealth further avers that any testimony of Mr. Saiers regarding the alleged victim’s

past sexual conduct would be inadmissible under the Pennsylvania Rape Shield Law, and should be precluded.

At the time of the argument, counsel for the Defendant indicated it was his intention to call Mr. Saiers to testify that WM has previously admitted to making false allegations of a sexual nature against him. Attorney Gold asserts that Mr. Saiers' testimony would be based on what WM had previously stated under oath at a prior hearing and would not be presented for the truth of the matter asserted but rather to show that WM has made similar accusations in the past. The Commonwealth strongly objects to the testimony of Mr. Saiers, arguing that this is exactly what Pennsylvania's Rape Shield Law is intended to protect against.

“Evidence of specific instances of the alleged victim's past sexual conduct, past sexual victimization, allegations of past sexual victimization, opinion evidence of the alleged victim's past sexual conduct, and reputation evidence of the alleged victim's past sexual conduct shall not be admissible in prosecutions of [any offense under Title 18, Chapter 31 (relating to sexual offenses)] except evidence of the alleged victim's past sexual conduct with the defendant where consent of the alleged victim is at issue and such evidence is otherwise admissible pursuant to the rules of evidence.” 18 Pa.C.S.A 3104.

The Rape Shield Law is designed to protect alleged rape victims in the context of a criminal trial. “Subject to limited exceptions, it excludes evidence of an alleged victim's past sexual history. Its purpose is to prevent the trial from shifting its focus from the defendant's guilt or innocence to the victim's reputation or moral virtue.” *Commonwealth v. Rogers*, 250 A.3d 1209, 1212 (Pa. 2021).

With that said, the shield law may not be applied in a manner that violates a

defendant's constitutional right to a fair trial, including his right to present evidence and cross-examine witnesses. *Id.* at 1216. *See Commonwealth v. Spiewak*, 617 A.2d 696, 701 (Pa. 1992) ("Notwithstanding these worthy legislative aims, rules excluding evidence cannot be mechanically applied to abridge a defendant's right of confrontation by denying admission of highly reliable and relevant evidence critical to his defense."). Although the Pennsylvania appellate courts have held that the Rape Shield Law may not be used to exclude relevant evidence attacking credibility or showing a witness' bias, *Commonwealth v. Black*, 337 Pa.Super. 548, 487 A.2d 396 (1985), subsequent decisions have applied the holding in *Black* quite narrowly, and "only where the victim's credibility was allegedly affected by bias against or hostility toward the defendant, or the victim had a motive to seek retribution." *Commonwealth v. Boyles*, 595 A.2d 1180, 1186 (1991).

In the present case, the Court finds that the Defendant has failed to provide an offer of proof with respect to Mr. Saiers' proposed testimony that was sufficient to skirt the prohibitions of the Rape Shield Law. The allegation of false accusations against a third party, Mr. Saiers, is not relevant to attack the alleged victim's credibility because counsel for the Defendant did not establish that they were motivated by any bias or hostility toward the Defendant himself. *See Boyles, supra*. The Defendant's attempt to attack the alleged victim's credibility through Mr. Saiers' recollection of her testimony at a prior hearing, of which there would be a more reliable source available in the official record, shall be precluded.

II. MOTION TO PRECLUDE TESTIMONY OF SANE NURSE

In his oral motion, Attorney Gold seeks to preclude the testimony of a SANE nurse, with respect to any statements made to her by the alleged victim during the course of the examination she conducted. Attorney Gold argues that the SANE nurse may testify to what she observed but any statements made by the alleged victim do not fall under any hearsay exception because the alleged victim was not there for a medical purpose. A statement that “(a) is made for – and reasonably pertinent to – medical treatment or diagnosis in contemplation of treatment and; (b) describes medical history, past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof, insofar as reasonably pertinent to treatment, or diagnosis in contemplation of treatment” is not excluded by the rule against hearsay. Pa.R.E. 803(4). Statements to medical providers retained solely for the purpose of trial are inadmissible under the medical treatment exception to the hearsay rule. *Commonwealth v. Fink*, 791 A.2d 1235, (Pa. Super. 2022). The Commonwealth argues that any testimony of the SANE nurse will have a proper foundation laid, which includes a description of how the nurse uses the alleged victim’s oral statements to guide her in conducting the examination. These statements may be pertinent to any treatment or diagnosis in contemplation of treatment for the alleged victim as a result of her experience involving the Defendant.

Furthermore, the alleged victim may testify regarding what she told the SANE nurse, in which case any subsequent testimony of the SANE nurse would be corroborative and, of course, subject to cross-examination by the Defendant’s counsel. For these reasons the Court will deny Defendant’s oral motion in limine seeking to preclude the testimony of the SANE nurse. However, this is without prejudice to the Defendant’s counsel’s right to raise

objections on specific questions or testimony at the time of the SANE nurse's testimony.

ORDER

AND NOW, this 9th day of **August, 2023**, for the reasons set forth above, the Court finds as follows:

1. The Commonwealth's Motion in Limine is **GRANTED**. The Defendant shall be precluded from presenting the testimony of Robert Saiers, Jr.

2. The Defendant's Motion in Limine to preclude the testimony of the SANE nurse is **DENIED**.

By the Court,

Ryan M. Tira, Judge

RMT/jel

CC: DA (P. Yates, Esq.)
Howard Gold, Esq.
Gary Weber, Esq.
Jennifer Linn, Esq.