

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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| COMMONWEALTH | : No. 4-2025 |
| | : |
| vs. | : Opinion and Order re Omnibus |
| | : Pre-Trial Motion |
| STEPHEN K. ANGLE, | : |
| Defendant | : |

OPINION AND ORDER

The Commonwealth charged Stephen K. Angle (hereinafter “Angle”) with two counts of aggravated indecent assault of a child, two counts of indecent assault of a complainant less than 13 years of age and one count of corruption of minors¹ for conduct that occurred between January 1, 2024 and March 26, 2024. In Count I of his Omnibus Pre-Trial Motion (OPTM), Angle asserts that the Commonwealth failed to establish a prima facie case for any of these charges, because the Commonwealth failed to establish the element of penetration, it failed to show that the contact for sexual gratification, and it failed to prove that the acts were done intentionally, knowingly or recklessly.

The court held a hearing and argument on Angle’s OPTM on October 6, 2025. At the hearing, the parties agreed that the habeas motion would be decided on the transcript of the preliminary hearing, which was admitted as Commonwealth’s Exhibit #1.

Defense counsel relied on the arguments made in the OPTM. The Commonwealth argued that Child’s testimony was sufficient to infer penetration and Angle’s intent and purpose could be inferred from the totality of the circumstances.

¹ 18 Pa. C.S.A. §§3125(b), 3126(a)(7), and 6103(a)(1)(ii).

DISCUSSION

A. Habeas

At the preliminary hearing stage of a criminal prosecution, the Commonwealth need not prove a defendant's guilt beyond a reasonable doubt, but rather, must merely put forth sufficient evidence to establish a prima facie case of guilt. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). A prima facie case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes probable cause to warrant the belief that the accused likely committed the offense. *Id.* Furthermore, the evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to be decided by the jury. *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001). To meet its burden, the Commonwealth may utilize the evidence presented at the preliminary hearing and also may submit additional proof. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (Pa. Super. 2016). The weight and credibility of the evidence may not be determined and are not at issue in a pretrial habeas proceeding. *Commonwealth v. Wojdak*, 466 A.2d 991, 997 (Pa. 1983); see also *Commonwealth v. Kohlie*, 811 A.2d 1010, 1014 (Pa. Super. 2002). Moreover, “inferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case.” *Commonwealth v. Huggins*, 836 A.2d 862, 866 (Pa. 2003). The Commonwealth is not required to present direct evidence and can sustain its burden of proof via wholly circumstantial evidence. See *Commonwealth v. Diggs*, 949 A.2d 873, 877 (Pa. 2008), *cert. denied*, 566 U.S. 1106 (2009); *Commonwealth v. Watley*, 81 A.3d 108, 113 (Pa. Super. 2013)(*en banc*). Furthermore, the evidence need not preclude every possibility of

innocence. *Watley, id.*

1. Aggravated Indecent Assault

Angle is charged with aggravated assault of a child in violation of 18 Pa. C.S.A. §3125(b), which states: “A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.” Subsections (a)(1) through (6) make it unlawful for any person to engage in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:

- (1) the person does so without the complainant’s consent;
- (2) the person does so by forcible compulsion;
- (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;
- (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; [or]
- (6) the complainant suffers from a mental disability which renders him or her incapable of consent[.]

18 Pa. C.S.A. 3125(a)(1)-(6).

Child testified at the preliminary hearing that when she was ten years old, Angle, whose bedroom was across the hall from hers, came into her bedroom in the evening when she was lying in bed trying to go to sleep. She was dressed in pajamas or a nightgown. Angle touched her private area under her clothes and moved his hands around, which made her uncomfortable. This occurred a few times before she moved back with her mother. She did not disclose these incidents

until her next doctor's appointment.

Angle contends that the evidence was insufficient to show that his acts were for the purpose of sexual gratification. This is a requirement for indecent assault. It is not a requirement for aggravated indecent assault, which is punishment when the purpose is anything "other than good faith medical, hygienic or law enforcement procedures." From the circumstances described by the Child, one can infer that the touching was not for a good faith medical or hygienic purpose. This was not a situation where the touching occurred while Angle was bathing the Child or examining the Child to determine if she was injured. The touching occurred in the evening when Child was going to bed. Furthermore, Child was ten years old, so she was old enough to bath and clothe herself.

Angle contends that the evidence was insufficient to prove his mens rea. Again, the court cannot agree.

Mens rea or criminal intent is satisfied by intentional, knowing or reckless conduct. *See* 18 Pa. C.S.A. §302(c) ("When the culpability sufficient to establish a material element of an offense is not prescribed by law, such element is established if a person acts intentionally, knowingly or recklessly with respect thereto."). The Crimes Code defines these concepts as follows:

- (1) A person acts intentionally with respect to a material element of an offense when:
 - (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and
 - (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.
- (2) A person acts knowingly with respect to a material element of an offense when:
 - (i) if the element involves the nature of his conduct or the attendant

circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and

(ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

(3) A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

18 Pa. C.S.A. §302(b)(1)-(3).

According to the testimony of Child, this occurred on a few separate occasions. This was not some sort of accidental touching. At a minimum, touching a child in the genital area and moving one's hand or fingers around creates a substantial and unjustifiable risk that the person will penetrate the child's genitals. It also involves a gross deviation from the standard of conduct that a reasonable person would observe. A reasonable person would not go into a child's bedroom as they are getting ready to go to sleep and touch the child's genitals. Furthermore, one can infer from the number of times that it allegedly occurred that his actions were intentional or knowing.

Angle also contends that the evidence was insufficient to establish penetration, however slight. Again, the court cannot agree. The statute does not require penetration of

the vagina; entrance in the labia² is sufficient. *See Commonwealth v. Hunzer*, 868 A.2d 498, 505-06 (Pa. Super. 2005).

2. Indecent Assault

Angle next contends that the evidence was insufficient to establish a *prima facie* case that he committed indecent assault.

Indecent assault as charged in this case is defined as follows:

“A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and ... the complainant is less than 13 years of age.” 18 Pa. C.S.A. 3126(a)(7). Indecent assault is “[a]ny touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in any person.” 18 Pa. C.S.A. §3101. This offense does not require penetration.

The court finds that the totality of the evidence and the reasonable inferences to be drawn from the evidence show that the purpose was arousing or gratifying sexual desire in any person for the same reasons that it found that the touching was not for a good faith medical or hygienic purpose. The touching occurred as Child was getting ready for bed. It did not occur during bathing, examining Child for an injury or infection or to clean an injury or infection. Given the number of times that it occurred, one can reasonably infer that it was for the purpose of arousing or gratifying sexual desire.

The court rejects Angle’s arguments regarding mens rea for the same reasons it

² The labia are the paired folds of skin that form the outer and inner lips of the vulva, which is the external part of the female genitals.

denied them with respect to aggravated indecent assault.

3. *Corruption of Minors*

Angle is also charged with corruption of a minor in violation of 18 Pa. C.S. §6301(a)(1)(ii), which states:

Whoever, being of the age of 18 years and upwards, by any course of conduct in violation of Chapter 31 (relating to sexual offenses) corrupts or tends to corrupt the morals of any minor less than 18 years of age, or who aids, abets, entices or encourages any such minor in the commission of an offense under Chapter 31 commits a felony of the third degree.

Aggravated indecent assault and indecent assault are violations of Chapter 31.

Angle is an adult male. Child was ten years old when the incidents allegedly occurred; therefore, she was less than 18 years of age. A ten-year old would not typically have knowledge or experience in anything of a sexual nature. Therefore, Angle's actions corrupted or tended to corrupt the morals of Child.

The court rejects Angle's arguments regarding mens rea for the same reasons it denied them with respect to aggravated indecent assault.

For the foregoing reasons, the court will deny Angle's motion for writ of habeas corpus.

2. *Motion to Preclude Reference to the Complainant as a "Victim"*

The second count of Angle's OPTM is a motion to preclude the Commonwealth from using the term "victim" as Angle has not been convicted and the term invokes sympathy. The Commonwealth agreed to this motion and indicated that it would use the complainant's name or the term "child."

3. *Motion for Disclosure of Other Crimes, Wrongs, or Acts Pursuant to Pa. R.*

E. 404(b)

Angle requests prompt notice of any Rule 404(b) evidence that the Commonwealth intends to use at trial. The Commonwealth agreed to disclose such evidence if or once it discovered any such evidence. The court noted that the arraignment order (dated January 27, 2025) already requires the Commonwealth to file and serve any 404(b)(3) notices no later than the date of the pre-trial, unless for good cause shown, and that Angle must file any motions in limine within fourteen days of receipt of the Commonwealth's notice. This case has already been pre-tried once, but it is clearly not ready for trial given the outstanding defense motions. The court has not object to a filing by the time of the final pre-trial or a sufficiently ahead of jury selection so as not to delay trial and to give the defense the time set forth above to file any motion in limine and the court to hear any such motion.

4. Motion to Disclose Promises and Criminal History

Angle requests *Giglio* information regarding any promises of immunity, leniency or preferential treatment that has or will be extended to its witnesses as well as complete criminal histories from the National Crime Information Center (NCIC) and/or Pennsylvania Justice Network (JNET). The Commonwealth indicated that it was not aware of any promises made to its witnesses and it would provide criminal histories closer to trial when once it know who would be called as witnesses at trial.

5. Motion for Request of Timely Notice of Any Expert Testimony

Angle asked for timely notice of expert testimony. The Commonwealth does not have an expert at this time. In the event the Commonwealth obtains an expert witness, it agreed to provide expert information in accordance with Rule 573(B)(2)(b) at least 60 days prior to jury selection.

6. Motion to Compel Records of Child Advocacy Center

Defense counsel noted that Child was interviewed at the Child Advocacy Center (CAC) on April 10, 2024. He acknowledged that he already received a copy of the CAC interview. He is seeking any pre- or post-interview notes, if any. The parties agreed that the Commonwealth (perhaps through Trooper Reiner) would reach out to the interviewer to see if any such records exist and, if so, the records would be reviewed by the court *in camera* to ensure that any personal identification information such as social security numbers and the like were redacted if such information was not already redacted by the CAC or its staff. If no such records exist, Trooper Reiner would author a supplemental report to indicate such and provide it to the prosecutor, who would provide it to defense counsel or the prosecutor would notify defense counsel in writing.

7. Motion to Disclose Any CYS records

8. Motion to Disclose Any Medical, Counseling and Educational Records

With respect to counts VII and VIII of the OPTM, the parties agreed that these records, with the exception of the medical record of the appointment where Child disclosed the alleged incidents, would be reviewed by the court *in camera*. Defense counsel indicated that he would reach out to counsel for CYS, John Pietrovito, by either subpoenaing the records or requesting Mr. Pietrovito to provide the records to the court. The Commonwealth indicated that it would seek the medical record and turn it over to defense counsel. The parties indicated that they would see what these records disclosed and go from there with respect to seeking other records such as counseling and educational records.

9. Motion to Determine Competence of Complainant and For a Taint Hearing

The parties agreed to hold this motion in abeyance until the court ruled on the motion

for writ of *habeas corpus* and until they received CYS records as such records could be useful to either side during a competency/taint hearing.

ORDER

AND NOW, this 7th day of October 2025, upon consideration of the Omnibus Pre-Trial Motion filed on behalf of Stephen K. Angle, it is ORDERED and DIRECTED as follows:

1. The court denies the motion for writ of habeas corpus.
2. With the agreement of the Commonwealth, the court grants the motion to preclude reference to the complainant as a “victim.” The Commonwealth intends to refer to the complainant by name or Child.
3. With respect to Rule 404(b) evidence, the Commonwealth indicated that it would provide timely notice to the defense. To the court, absent good cause shown, timely notice means sufficiently before trial to give the defense at least two weeks to file a motion in limine and time for the court to hear and decide the motion prior to trial.
4. With respect to Count IV, the Commonwealth indicated that it is not aware of any promises made to its witnesses. The Commonwealth agreed to provide criminal histories closer to trial when the Commonwealth knew who it intended to call as witnesses at trial.
5. The Commonwealth indicated that it currently does not have an expert

witness. In the event that it obtained an expert witness, the Commonwealth agreed to provide expert discovery in accordance with Pa. R. Crim. P. 573.

6. With respect to any pre- or post-interview notes from the CAC interview on April 10, 2024, the Commonwealth agreed to reach out to see if any such records exist and if so, for the court to review them *in camera* to ensure that no personal identification information was disclosed. If no such records exist, the Commonwealth shall notify defense counsel in writing.
7. With respect to CYS records, defense counsel will contact CYS attorney John Pietrovito about obtaining those records and supplying them to the court for *in camera* review.
8. With respect to medical, counseling and education records, the Commonwealth agreed that it would seek the medical record for the appointment during which the complainant revealed the incidents in this case.

With respect to counseling and educational records, the parties agreed to wait to see what the CYS records disclosed before pursuing the counseling and education records, as information in the CYS records may be helpful to determining the individuals with whom Child spoke about these matters.
9. The parties agreed to hold the request for a competency/taint hearing in

abeyance pending the court's decision on the request for habeas relief and the receipt of CYS records.

By The Court,

Nancy L. Butts, President Judge

cc: Jessica Feese, Esquire (ADA)
Edward J. Rymsza, Esquire
Jerri Rook