

April 26, 2017

(Witnesses are sworn in.)

THE COURT: The case of the Commonwealth of Pennsylvania versus [REDACTED] 2017-356. [REDACTED] was cited and convicted by Judge Smith of harassment and fined \$300. He has filed an appeal. Are you ready to proceed?

MR. TISAK: Yes, Your Honor.

THE COURT: What's the number?

MS. TISAK: It is 356 of 2017.

THE COURT: No. The Crimes Code.

MR. TISAK: It's 2709(a)(1). I believe this is a hearing.

MS. WALTERS: Your Honor, I'm Dawn Walters. I'm his guardian ad litem with Kids Voice. He's involved with the juvenile dependency system. I represent him there under the supervision of Judge Jennifer McCrady. We are basically just appealing the fine.

[REDACTED] has been in and out of placement due to his parents' inability to care for him over the last two years.

THE COURT: Is any of that my problem?

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MS. WALTERS: No, Your Honor. It's just that he does not have the ability to pay. He went through the Office of Children Youth & Families due to his parents' inability to care for him. He was not receiving any parent support at home. And he was just returned to his mother's care at the time of this incident.

Because he's a foster child in the system, he doesn't have the ability to pay the fines. We are asking for community service in place of that fine.

THE COURT: Let's find out what happened.

MS. WALTERS: We are willing to stipulate to what happened.

THE COURT: No. You are not willing to stipulate to what happened. I want to know what happened to see whether or not I want to be merciful. Isn't that what you want? At the end of the day, all you want is for me to be merciful, right?

MS. WALTERS: Yes, Your Honor. I would hope.

THE COURT: That's what I thought.

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What happened?

MR. TISAK: Your Honor, do you want my statement or have her testify?

THE COURT: It doesn't matter. Just tell me what happened.

MR. TISAK: The defendant touched the victim in various inappropriate sexual manners over a period of time.

THE COURT: Where were they?

MR. TISAK: In school, I believe, Your Honor.

THE COURT: What school?

THE VICTIM: [REDACTED] middle school and high school.

THE COURT: Where is that?

THE VICTIM: [REDACTED]

UNIDENTIFIED SPEAKER: [REDACTED]

THE COURT: Is he in that school now?

MR. TISAK: No.

THE COURT: How many times did this happen?

THE VICTIM: It's happened several times.

THE COURT: Did you report it?

THE VICTIM: I did after the last time.

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THE COURT: Did you report it the first time?

THE VICTIM: I did not.

MR. TISAK: The victim is a juvenile in this case as well.

THE COURT: Of course she is. They are both in school together. I understand all of that.

MR. TISAK: Yes, sir.

THE COURT: Where is he now?

MS. WALTERS: Your Honor, he is attending the AIU school.

THE COURT: The what?

MS. WALTERS: It's the AIU.

THE COURT: What is that?

MS. WALTERS: It's an alternative education placement. It's in [REDACTED]. He's receiving additional services there. He's enrolled in [REDACTED].

THE COURT: Has he been diagnosed with anything?

MS. WALTERS: He is receiving some services to help him deal with anger management. He acknowledges what he did on this particular incident was incorrect. He

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SYour Frien17050316150-5.psd

would like to give an apology to her. And they have had no following contact since the incident.

THE COURT: All right. That's a good idea. How old are you?  
(Defendant) [REDACTED] I just turned 18, Your Honor.

THE COURT: Say again.  
(Defendant) [REDACTED] I just turned 18, Your Honor.

MS. WALTERS: He turned 18 approximately six weeks ago. And when this incident occurred, he was still a juvenile and --

THE COURT: Listen. I can name at least one adult that thinks that's okay.

MR. TISAK: Yes, Your Honor. The Commonwealth does not.

THE COURT: I understand that. He's an important guy. Be that as it may, I'm going to accept the offer of community service.

MR. TISAK: If I may, Your Honor?

THE COURT: What would you like me to do?

MR. TISAK: Order no contact. We were

SYour Frien17050316150-6.psd

going to ask for 90 days probation. We just want him to stay away from her. I know he's currently doing that.

THE COURT: Fine. I'm going to give him a 90-day postponement. He has to do community service. And he has to pay a \$3 fine. How many times did he touch?

THE VICTIM: I'm going to say about six times maybe.

THE COURT: A \$6 fine.

MR. TISAK: Your Honor --

THE COURT: I have to fine him.

MR. TISAK: Yes, Your Honor, I understand.

THE COURT: What would you like the fine to be? What do you want me to do? I can put him in jail. You want me to put him in jail?

MR. TISAK: Your Honor, we want the 90 days probation. It is just highly inappropriate to tell a young girl that inappropriate touching is worth a dollar a time.

THE COURT: What do you want me to fine him? He doesn't have any money.

SYour Frien17050316150-7.psd

MR. TISAK: I understand that. That's not the point.

THE COURT: Of course, it's the point.

MR. TISAK: I don't care if the fine is zero dollars. It's highly inappropriate to tell a young girl that --

THE COURT: All right. It's zero dollars. Ninety days. No contact. Twenty hours of community service.

I feel badly for the victim. I really do. But there is really isn't much I can do. I'm assuming they don't go to the same school.

MS. WALTERS: They don't, Your Honor.

THE COURT: All right. We will see you in 90 days.

(Hearing concludes.)

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