

# VERDICT

LEGAL ANALYSIS AND COMMENTARY FROM JUSTIA

## Thank You, Penn State

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I am a big fan of Penn State's academics, where I attended graduate school. When "analytical" philosophy swept the nation's universities in the early 1980s, displacing continental philosophy, Penn State had one of the few remaining departments teaching continental (translation: European philosophy). Leaving Vanderbilt where I had happily been an undergrad, I declined the offer from Yale's philosophy department because I was told I would have to abandon continental for "real" philosophy. Instead of New Haven, I headed to State College. I studied with some of the top continental scholars in the world at Penn State and will be forever grateful for the opportunity to study Soren Kierkegaard and Friedrich Nietzsche in depth,

whose writings have played pivotal roles in my law and religion scholarship and my understanding of the dynamic between religion and the culture.

When I then decided on a Master's degree in fiction writing at Penn State, again I had first-rate professors, like the brilliant Paul West. There, in the English Department, Joe Paterno was a hero because his football program routinely funded major aspects of the English program. This was a remarkable marriage of academics and football, and I was proud of it.

Then when the Sandusky scandal hit, I had to give Penn State at least some credit for not dragging survivors through the scorched earth litigation tactics of too many institutions, hiring a respected outsider, Louis Freeh, to do an independent investigation, and for settling in a fair and relatively straightforward way with as many survivors as possible. No lawyer had a majority of the Sandusky cases and so no one knew what Penn State was doing with all cases, but it was common knowledge that Penn State wasn't even raising the statute of limitations defense, which is now the mark of the Catholic bishops' treatment of the victims.

## **Paterno Knew in the 1970s, Just Like the Bishops Knew Decades Ago**

Now I am grateful to Penn State for quite a different reason: thank you, Penn State, for further teaching the public that the Catholic bishops do not own a patent on long-term ignoring and covering up child sex abuse. There were reasons to see parallels before now, as I discussed [here](#), but the latest report tells us that **Paterno and other coaches knew** over a decade earlier than was originally reported. The bishops fight sex abuse victims in the state legislatures with self-righteous vehemence, and make the argument that statute of limitations reform “targets” them as though they are the only entity

that has engaged in the cover up of serial pedophiles. The mighty Penn State puts the lie to their narcissism.

When the Sandusky scandal broke, it proved to the world that the issue of institution-based child sex abuse is a society-wide problem, not one isolated to particular institutions. There have been remarkable moments in the Penn State story, not the least of which is that Joe Paterno himself, before he died, said he didn't do all he should have done. This was a contrite statement, and he deserves to be remembered for this moment of humanity. What do his "fans" say in response? Of course he did everything because he was Joe Pa! Joe Pa can't be responsible for covering up for pedophiles!

These silly, mindless defenses echoed the earlier claims that the bishops "meant well" and that *they* were the real victims of the child predators. To state their early world view mathematically: the bishops = good guys, while the priest pedophiles = bad guys. Of course the more we learned, the more clearly wrong this dichotomy became. The guys perpetuating the abuse and granting leeway for suspected pedophiles to have access to more children also created the conditions for the abuse.

Now, we learn, as a result of the dispute between Penn State and its insurers, that it settled claims of abuse arising as early as 1971. This is well before the abuse dates previously disclosed. In the immortal words of Captain Renault: I'm shocked! Not that claims pre-date the 80s or even that they go back as far as 1971, but that they don't go back to 1963 when Sandusky arrived on the Penn State campus to be a defensive coach.

Paterno's dissemblers at the University and in his family declared in response to these new revelations that there was no "clear evidence" that Paterno knew. Really? How is it possible at this late date, scandal after scandal and

post *Spotlight*, for them not to hear themselves? Knee-jerk denial does no one any good, particularly when we are dealing with a confirmed serial child predator. There is a thing called decency.

So let's assume Paterno knew in the early 70s. Why would he have kept his knowledge about Sandusky quiet? Well, by the early 1970s, Sandusky had transformed Penn State football into Linebacker U and in 1973 they went undefeated. The program was clearly on the way to the very top, and with Sandusky as defensive coordinator Penn State would win national championships in 1982 and 1986. Paterno knew and chose to keep Sandusky. Why? Because it served his ends. *And because children are dispensable*, especially the ones in Sandusky's Second Mile charity, which drew from a population of boys with troubled homes. This is precisely the same reason the bishops let children suffer and the same reason the Solebury School ignored a long history of abuse on its campus, not to mention Horace Mann, Poly Prep, the Boy Scouts, and on and on.

Penn State fans now have a new choice: continue to make Joe Pa a saint despite the facts, or help the survivors find justice by desisting with your empty defenses. Denial that will drag down Penn State even farther or justice for the kids that suffered? To quote Kierkegaard, it is "Either/Or."

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