



Attorneys at Law

Jackson Lewis LLP
75 Park Plaza
Boston, Massachusetts 02116
Tel 617 367-0025
Fax 617 367-2155
www.jacksonlewis.com

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PAUL V. KELLY, ESQ
DIRECT LINE: (617) 305-1263

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BY FAX, EMAIL AND FIRST-CLASS MAIL

National Collegiate Athletic Association
Infractions Appeals Committee
Attn. Wendy Walters, Staff Liaison
700 West Washington Street
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Re: Notice of Appeal of Consent Decree imposed upon
The Pennsylvania State University

Dear Ms. Walters:

We represent the following former players and coaches from the football team at The Pennsylvania State University ("Penn State"): Michael Robinson (2001-05), Anwar Phillips (2001-05), Josh Gaines (2004-08), Shamar Finney (1998-02), Richard Gardner (1999-03), Gerald Cadogan (2004-08), Anthony Adams (1998-02), Justin Kurpeikis (1996-00), and William ("Bill") Kenney (Asst. Coach 1988-2011), individually and as representatives of all former players and coaches who were part of the football program between the years 1998 and 2011 ("Appellants"), in submitting this notice of intent to appeal the NCAA's consent decree entered against the University on July 23, 2012. Pursuant to NCAA Bylaws 32.1.5 and 32.10.1.2, the Appellants are former student-athletes and institutional staff members who have been collectively named in the consent decree, who are involved in this matter, and who are directly damaged and harmed by the punitive component of the consent decree, including the vacation of "all wins of the Penn State football team from 1998 to 2011."

The Appellants challenge the manner and means by which the consent decree was arrived at, including the NCAA's disregard of and failure to follow its own Administrative Bylaws and Enforcement Policies and Procedures, which deprived the Appellants and others of fundamental due process rights. Among other things, the Appellants and other involved parties were denied the right to be heard regarding the initial allegations, the factual findings and conclusions contained in the decree, and the sanctions imposed. The Appellants believe that the only way to support and respect the victims of abuse is for there to be a thorough investigation and fair hearing which seeks the truth, not a rush to judgment designed to put this affair in the past.

The Appellants challenge the factual findings and conclusions of the consent decree, and of the underlying investigative report by Sporkin & Sullivan (the "Freeh Report"), which - - without notice, investigation or hearing as required - - provided the predicate for the actions taken by the

NCAA in this matter. Many of the findings contained in the consent decree and in the Freeh Report, including the determination that at Penn State the “football program was held in higher esteem than the values of the institution, the values of the NCAA, the values of higher education, and most disturbingly the values of human decency,” are clearly erroneous and not supported by the evidence. By these unsupported findings, the Appellants have been forever branded as somehow contributing to a “culture” on campus that enabled these unlawful acts against children to continue. Meaning no disrespect to the victims of abuse, these findings are unfair and they are wrong.

Finally, the Appellants challenge the punitive component of the sanctions imposed as being excessive and constituting an abuse of discretion.

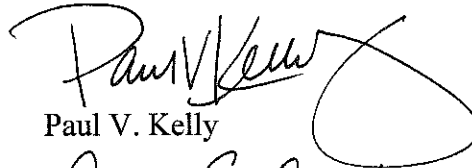
Between the years 1998 and 2011, nearly three hundred and seventy-five (375) student-athletes and coaches were proud members of the football program at Penn State University. The Appellants, and other student-athletes not specifically named herein, devoted years of their lives, suffered serious and sometimes debilitating injury, and made great sacrifices to be accepted at Penn State and to compete at the NCAA Division I level in their chosen sport. The incredible commitment shown by these student-athletes was almost always paralleled by a similar level of support and sacrifice by parents and families over many years. During their time on campus, these student-athletes worked hard to balance academics and athletics, resulting in a graduation rate of 87 percent during the years in question, to lead the top 25 ranked college football programs (along with Stanford University) according to several studies and published reports. Most of these young men have gone on to impressive professional careers outside of football. During this same period (1998-2011), the Penn State football program maintained a record of excellence on the field, winning the Big Ten Conference Championship in 2005 and 2008 and six post-season bowl games, while being consistently ranked within the top 25 Division I collegiate teams in the country.

In the face of this impressive academic and athletic record, and despite an express finding in the consent decree that “no student-athlete is responsible for these [Sandusky-related] events,” the NCAA nonetheless decided to “vacate all wins of the Penn State football team from 1998 to 2011.” This sanction is unreasonable, excessive, unprecedented, and constitutes an indignity to the men who honorably fulfilled their responsibilities as student-athletes and coaches at Penn State under Coach Joe Paterno during this time period. If a primary intended purpose of the sanctions was to attempt to change the culture at Penn State and “realign it in a sustainable fashion with expected norms and values of intercollegiate athletics,” these sanctions not only miss the mark, but they inflict permanent damage to an entire generation of student-athletes and coaches who were innocent of any wrongdoing during their time on campus while placing a unwarranted blemish on an institution that, by the NCAA’s own acknowledgement, “has never before had NCAA major violations.”

On behalf of our clients, we request an opportunity to submit our appeal in writing, and further request an in-person oral argument before the Infractions Appeals Committee.

We look forward to receiving acknowledgement of receipt of this notice of appeal.

Very truly yours,

  
Paul V. Kelly

  
Gregg E. Clifton PVK