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### ***STATEMENT BY DISTRICT ATTORNEY KEVIN R. STEELE***

***July 11, 2021***

Since the majority decision by the Pennsylvania Supreme Court released William H. Cosby Jr. from state prison, there has been a tremendous amount of misinformation about what actually took place in this criminal prosecution. Throwing further fuel on the fire was a televised interview airing this weekend by now Pennsylvania Supreme Court Chief Justice Baer during which he labeled the prosecution a “reprehensible bait and switch.”

To be very clear, prosecutors in this case did not believe there was an agreement not to prosecute or immunity for the defendant at the time we moved forward on the case, and we do not believe it now. If we had believed there was an agreement or immunity, we would not have moved forward in our attempt to bring Cosby to justice. Among a litany of reasons, a promise never to prosecute was not mentioned by Bruce Castor when he issued his press release saying he was declining prosecution. Instead, Castor said: “District Attorney Castor cautions all parties to this matter that he will reconsider this decision should the need arise.” This alleged agreement was not put on the record before or during the contentious civil deposition of Cosby. When this alleged agreement surfaced years later during the renewed investigation through an email Castor sent to the district attorney at the time—which he blind copied to defense counsel—we searched our records and court records and went so far as to see if defense counsel could produce any writing, which would have memorialized the supposed agreement or referenced the supposed agreement. Despite the extensive investigation we conducted, we found no credible evidence that Castor had given Cosby immunity.

However, the fact finder in our system of justice is the trial court. The trial court found what we did—that there was no promise and no reliance, based upon a credibility determination, which was the trial judge’s province to decide. The procedural history behind that finding was that soon after Cosby was charged, a two-day hearing on the issue of the alleged agreement was held by the trial court. The trial judge found that testimony by Castor regarding the supposed promise not to prosecute was “incredible” and rejected the defendant’s allegations that Castor promised Cosby immunity and that he relied on it. Cosby immediately appealed that decision. Both the Pennsylvania Superior Court and Supreme Court, in May 2016, rejected the pre-trial appeal on this precise issue.

Only then did the criminal prosecution move forward.

The standard of review for claims on appeal requires deference to the trial court's credibility and factual determinations. Again, the trial judge found Cosby's evidence incredible—there was no promise and there was no reliance. The Superior Court held that these rulings were supported by the record and thus binding on appellate review.

Former Supreme Court Chief Justice Saylor, in his dissenting opinion, explained that: “the majority opinion supplants the trial court's fact-finding on critical points—including the fact of a promise and the asserted reliance,” and in doing so, the majority contravened “operative principles of review.”

As we examine if any further review is available to us in this case, know that those working in the Montgomery County District Attorney's Office will continue to follow the evidence wherever and to whomever it leads. And as always, we will continue to follow the law as we did in this case, and we do in every case. Finally, we encourage victims to come forward, and hope they know that they will be treated with respect and dignity by us.