

Wednesday, September 19, 2018

Today's Paper

The New York Times

Will Bill Cosby's Trip From America's Dad to Sex Offender End in Prison?



Bill Cosby is facing a maximum sentence of 30 years in prison when he is sentenced next week in Pennsylvania.

Credit Credit Matt Rourke/Associated Press

By Graham Bowley, Agustin Armendariz and Colin Moynihan

- Sept. 19, 2018

When Bill Cosby arrives at the Montgomery County Courthouse next week to be sentenced for sexual assault, he will find out whether prison is the final stop on his descent from beloved entertainer to disgraced felon.

But the judge making that decision, [Steven T. O'Neill](#), will confront his own personal pressures, weighty expectations and knotty legal challenges. Chief among them: What to do with an 81-year-old sex offender who could become one of the most famous Americans ever to enter a cell?

At a time when the country is finally reckoning with a culture of predatory sexual abuse by powerful men, Judge O'Neill is likely to survey a courtroom in Norristown, Pa., that is filled with many of the dozens of women who say Mr. Cosby drugged and assaulted not just Andrea Constand, but them,

too. A large number of these women expect a long prison sentence, one that will put an exclamation mark on the first major conviction of the [#MeToo era](#).

“My wound was greatly healed by the guilty verdict in the spring,” said Lili Bernard, an actress who says that Mr. Cosby drugged and raped her in the early 1990s. “But to see him in handcuffs, that would be like, ‘Wow.’ We, the victims, deserve that.”

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Prosecutors have said they will push for the maximum 30-year prison term: 10 years on each of three counts of aggravated indecent assault. But Mr. Cosby’s lawyers are sure to fight that, ***depicting him as a frail old man with failing vision, incapable of assaulting another woman or surviving a long sentence.***

And Judge O’Neill will have to consider [state guidelines](#) that recommend, but do not mandate, appropriate sentence ranges. A New York Times analysis of Pennsylvania court data for the past five years found that offenders convicted of crimes similar to Mr. Cosby’s often did not receive the maximum penalty, but were more typically given sentences of two to five years.

Each case, of course, is different, and there is little that is typical about Mr. Cosby’s, or about the [criticism his team](#) has directed at the man who will soon be deciding his fate. Mr. Cosby’s wife, Camille Cosby, has already demanded that Judge O’Neill step down, assailing him as biased and allied with prosecutors. Mr. Cosby’s lawyers have filed several motions suggesting that they plan to challenge the judge’s rulings and his personal integrity on appeal.



Judge Steven T. O’Neill is to sentence Mr. Cosby, who was convicted of sexual assault in April.

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Mr. Cosby's spokesman, Andrew Wyatt, confirmed that Mr. Cosby would appeal his conviction, but declined to specify on what grounds.

"I can't go through the list," he said. "There are so many errors."

Mr. Wyatt said Mr. Cosby would ask to remain free on bail, post-sentencing, while he pursues his appeal, a process that could take years. If Judge O'Neill were to allow that, he would surely face criticism from the many female accusers looking to find closure in the case.

"We will all feel very let down by that," said Victoria Valentino, a former model for Playboy who says Mr. Cosby drugged and raped her in Los Angeles in 1969.

One of the defense lawyers' anticipated arguments for appeal revolves around whether Judge O'Neill should have recused himself because his wife, Deborah V. O'Neill, is a therapist who works with sexual assault victims at the University of Pennsylvania. Defense counsel argued before the trial that the judge had been influenced by her views, but he denied their request to step down.

Last week, the defense again asked Judge O'Neill to step down, arguing that he had failed to disclose a longstanding feud with Bruce Castor, a former prosecutor who testified at a pretrial hearing in the case.

A more potent appellate issue, experts said, would be the anticipated challenge to Judge O'Neill's [ruling that allowed five additional women](#) to provide their accounts in court. Their testimony, often graphic and affecting, bolstered that of Ms. Constand, the former Temple University employee whom Mr. Cosby was convicted of drugging and sexually assaulting.

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Testimony concerning prior alleged crimes is only allowed in Pennsylvania, as in other states, if, among other conditions, it demonstrates a signature pattern of abuse. But its inclusion is extremely rare, and Judge O'Neill never explained why he allowed the five additional women to testify in the trial this year after allowing only one additional accuser to speak at Mr. Cosby's first trial in 2017. That [ended in a mistrial](#) after the jury failed to reach a verdict.

Image



Mr. Cosby, center, was convicted of three counts of aggravated indecent assault, a second-degree felony. He has indicated he will appeal.

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“The No. 1 issue is definitely that big change, of letting in those additional complainants in the case,” said Shan Wu, a former sex-crimes prosecutor in Washington. “I am sure that Cosby’s team are licking their chops.”

Experts say judges are often more lenient about bail in cases where the appeal issues are viewed as strong.

“When someone has a legitimate issue,” said Brian Jacobs, a former federal prosecutor in New York who has studied the topic, “and there’s an argument that certain evidence should not have been allowed that could reduce the chance of a conviction at retrial, then there is an interest in allowing that person to stay out on bail.”

Mr. Cosby, who has denied sexually abusing any of the women, is currently free on \$1 million bail, though he is confined to his suburban Philadelphia home and has to wear a GPS monitoring device. After Mr. Cosby’s conviction, prosecutors had immediately asked for his bail to be revoked, but Judge O’Neill said he did not view Mr. Cosby as a flight risk, one of the criteria weighed in such a decision.

Legal experts said it was generally uncommon in Pennsylvania for offenders to be allowed to remain free on bail, pending appeal, after a judge had sentenced them to incarceration.

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Mr. Cosby was convicted on these three counts: penetration with lack of consent, penetration of the victim while she was unconscious, and penetration after administering an intoxicant. The New York Times reviewed state sentencing data for 121 cases over the past five years in which the most serious conviction was for at least one of those three counts.

Mr. Cosby is far older than all of the others convicted. Their median age was 36, though in a few cases, the offender was in his late 60s.

Image



Andrea Constand is the only woman who has accused Mr. Cosby to have her case result in a criminal trial.

Credit Pool photo by Corey Perrine

A vast majority of the offenders also received fewer than 10 years, with a median sentence of two to five. But there were several cases in which judges gave maximum sentences of 20 years or more to offenders who had been convicted on multiple counts of aggravated indecent assault, or a single count in tandem with other, lesser crimes.

In some of those cases, the judge eschewed a common practice of making multiple sentences concurrent and instead ruled that they be served consecutively. In another case, the person qualified for a more severe sentence because he was viewed as a repeat offender under Pennsylvania's sex offender laws.

Mr. Cosby had never before been convicted of a crime, and his team is expected to argue that his three counts should be merged into a single count, a decision that would mean that he would face a prison term of no more than 10 years.

Prosecutors have asked that an unspecified number of women who have accused Mr. Cosby of sexually assaulting them be allowed to testify at the sentencing hearing, a move that one of Mr. Cosby's lawyers, Joseph P. Greene Jr., is trying to block. But Ms. Constand will certainly be allowed to speak at the hearing, as will Mr. Cosby, if he so chooses. The person being sentenced usually has the last word.

Mr. Jacobs, the former federal prosecutor, said that even if none of the other women were allowed to speak, he had to believe that the number of accusers who say Mr. Cosby preyed on them for decades would be an important factor in Judge O'Neill's thinking. One purpose of sentencing in such a high-profile case can be to send a message that might deter others, he said.

"The judge would have to be conscious of the fact that this is one of the earliest sentences in the Me Too era," Mr. Jacobs said.

Judge O'Neill declined to comment for this article. But Dennis Mc Andrews, a Pennsylvania lawyer who has known the judge since they attended Villanova University School of Law together, said he did not expect Judge O'Neill to have any problem navigating the maze of factors in this sentencing.

"He has been a judge for 14 years," Mr. Mc Andrews said, "and in terms of experience and temperament, he has got all the tools necessary to assimilate and synthesize every piece of information that will come before him."

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9/21/2018 4:49 PM*