

Meet the L.A. Lawyer Who Just Might Save Bill Cosby From Criminal Conviction

By Jenna Greene

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Angela Agrusa considers herself a feminist--but that hasn't dissuaded her from representing Bill Cosby.

"I view myself as a lawyer who happens to be a woman," said Agrusa, the head of litigation at Liner LLP in Los Angeles, who recently stepped in as lead counsel for Cosby in both his civil and criminal sexual assault cases. "What I really believe in is our justice system. ... I will do what needs to be done to make sure everyone's rights are protected."



In Cosby's case, that means making a new--and compelling--argument that his due process rights have been so violated that the criminal charges must be dismissed.

"Sometimes true justice doesn't look pretty to a lot of people," Agrusa said in an interview by phone from the airport in Philadelphia, where she was waiting to board a plane home to Los Angeles.

A former partner at Baker & Hostetler, Agrusa has represented corporations, municipalities and high profile individuals in disputes with hundreds of millions of dollars on the line. Last year, she secured a \$24 million settlement for a group of investors in a breach of contract suit against the state of California.



Comedian Bill Cosby(2nd-L) speaks with his attorney Angela Agrusa as they arrive at the Montgomery County Courthouse for a pretrial conference related to aggravated indecent assault charges on September 6, 2016, in Norristown, Pennsylvania. Cosby is expected to face trial on charges stemming from an encounter with Andrea Constand in 2004.

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Using her skills as complex commercial litigator to represent Cosby against accusations that he drugged and sexually assaulted scores of women has been "a very intuitive transition," she said.

After extensive vetting, Agrusa, introduced to Cosby by Liner partner Kirk Pasich, who represents Cosby in insurance coverage issues, said she was "humbled" to be selected to lead the defense of the comedian.

In July she replaced Quinn Emanuel Urquhart & Sullivan and solo Monique Pressley. Brian McMonagle

of Philadelphia-based McMonagle, Perri, McHugh & Mischak remains as co-counsel.

Agrusa is adamant that Cosby has not gotten a fair shake, describing the case in an Oct. 6 motion to dismiss in Pennsylvania state court as “a perfect storm of prejudice, bias and delay.”

She’s got a point.

Like every person who has watched TV, read a newspaper or passed a grocery store checkout magazine rack, I’m aware of accusations that Cosby, the once-beloved entertainer, drugged and raped more than 50 women. It’s hard not to reason that if there’s so much smoke, surely there must be a fire.

And maybe there is. But Agrusa argues effectively that the way the criminal case has unfolded--“a cyclone,” she calls it--crossed the due process line.

It’s worth stepping back to review what happened.

In 2005, Andrea Constand, then the director of operations for Temple University’s women’s basketball team, accused Cosby of giving her pills (which he allegedly said were herbs) and then sexually assaulting her in 2004.

But the district attorney, Bruce Castor Jr., concluded that there was “insufficient credible and admissible evidence” to prove the charges beyond a reasonable doubt.

For one thing, there was no forensic evidence, and Constand waited about a year to make the accusation. In addition, she had about 20 subsequent communications with Cosby, including telephone conversations and a dinner party, and attended one of his performances with her family.

You can see why the DA figured this wasn’t a great criminal case. He did hear from at least one other woman about Cosby, but her allegations involved an incident that took place 30 years before.

So Castor closed the case--knowing that if he did so, Cosby could be compelled to testify under oath in Constand’s civil case without pleading the Fifth. “At the time I made the decision not to prosecute him, I knew this opportunity would present itself in the civil case, so I knew that he’d have to answer questions under oath that he didn’t have to answer to me,” he told CNN’s Anderson Cooper in 2005.

However, Castor promised Cosby’s lawyer, Walter Phillips Jr., that his client wouldn’t be criminally prosecuted based on Constand’s allegations.

Cosby was deposed for four days in 2005. In 2006, the case settled on confidential terms.

And then nothing happened for eight years. No ongoing criminal investigation, nothing.

Until a comedian’s jokes about Cosby went viral in late 2014, and Gloria Allred (who on her website calls herself “the most famous woman attorney practicing law in the nation today”) held a press conference demanding Cosby place \$100 million in a fund to compensate women for previously unreported assault claims, some of them decades-old.

In July 2015, U.S. District Judge Eduardo Robreno of the Eastern District of Pennsylvania agreed to unseal Cosby’s 2005 deposition at the request of the Associated Press—and did not stay his order. Within 20 minutes, Cosby’s lawyers sent an email asking for one, but it was too late. An AP reporter had already found the docs.

On appeal, the U.S. Court of Appeals for the Third Circuit in August ruled that whether or not Robreno made the right call to unseal the file was moot—there was no way to un-ring the bell. The panel did note, however, that Robreno “relied on the novel rationale that Cosby had reduced privacy interests because he had ‘donned the mantle of public moralist.’” In a

footnote, the panel said it had “serious reservations” about the concept, which it said “has no basis in our jurisprudence.”

In 2015, a new DA, Kevin Steele, was elected--based in part on attacking Castor for not bringing a case--and promptly filed charges against Cosby for aggravated indecent assault.

“Mr. Steele won his election by treating Mr. Cosby as a convict in the court of public opinion. Ms. Allred parades her clients in front of the media—entertainment masked as legal prowess and journalism. And the public jumps into a mob, willing to believe unsubstantiated, decades-old allegations,” Agrusa and McMonagle wrote in the Oct. 6 motion. “There is no hope that Mr. Cosby can receive a trial free from outside influence in Montgomery County, as due process requires.”

In July, Cosby’s team lost an appeal to the Pennsylvania Supreme Court that Castor’s agreement not to prosecute should have barred Steele from bringing charges.

Steele denies any non-prosecution agreement existed—and the only person besides Castor who could verify that it did, Cosby’s lawyer Walter Phillips, died in 2015.

Indeed, the emphasis now by Agrusa is on the state’s 11-year delay in bringing charges. Because a lot happened in the intervening 11 years that has handicapped Cosby’s ability to mount a defense.

The state has 13 witnesses who accuse Cosby of misconduct. One of them, for example, “claims that her agent arranged for her to have dinner with Mr. Cosby in Toronto, Canada in 1969. Her agent died in 2011. She claims they dined with a famous football player. He died in 2012. The restaurant where she claims they

dined closed in 1990. She claims a limousine took her, Mr. Cosby, and two others to the Sutton Place Hotel after dinner. The Sutton Place Hotel was converted into condominiums in 2013. This accuser waited 46 years to go public with her accusations.”

Or another who didn’t report her assault for 36 years, but said she discussed it with her roommate--also now dead--right afterwards. Another said Cosby’s personal valet, Cam Cooper, was a contemporaneous witness. Cooper died in 2008.

“Any possibility that Mr. Cosby could obtain the crucial impeachment evidence ... hotel records, plane tickets, witness testimony, phone records, receipts, limousine logs, etc., is gone forever,” Agrusa wrote.

In addition, Cosby, who is now 79, has gone blind. “Without his eyesight, Mr. Cosby cannot even determine whether he has ever even met some of his accusers, let alone meaningfully assist in his own defense,” Agrusa wrote.

The overall point: defendants are supposed to have constitutional protection from defending against stale charges, absent a valid reason for the delay. Here, the main reason the case was resurrected, is politics, Agrusa argues--and not because the state spent the intervening decade investigating the charges or found information that was previously unavailable.

It’s a persuasive argument. Even if Cosby did all that he is accused of--and I’m not convinced he didn’t--due process rights matter.

Justice for his accusers may come in the civil cases, but the criminal prosecution appears fundamentally flawed.

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