

COMMON PLEAS COURT
FILED

2008 JAN 16 AM 10:26

IN THE COURT OF COMMON PLEAS OF ALLEN COUNTY, OHIO

GINA C. STALEY-BURLEY
CLERK OF COURTS
ALLEN COUNTY, OHIO

STATE OF OHIO, ex rel
JIM PETRO, ATTY. GENERAL *

CASE NO. : CV2006 0248

Plaintiff *

-v- *

ROBERT E. MCCLELLAN, et al. *

JUDGMENT ENTRY
(CIVIL PENALTY)

Defendants *

.....
Hearing held on January 4, 2008 upon Plaintiff, State of Ohio's Motion for Civil Penalty pursuant to O.R.C. 3734.13(C) and other applicable sections; State of Ohio represented by Attorney Brian A. Ball; defendant present and represented by Attorney Gregory W. Donohue.

Evidence was then presented and the parties rested. Plaintiff having already filed its Hearing Brief – defendant was granted 14 days to file a Response Brief, which was filed herein on January 11, 2008.

The Court has considered the evidence, exhibits, applicable statutes, the law and briefs of the parties.

The Court recognizes that the applicable statutes call for strict liability prohibiting public welfare offenses.

The Court has considered the fact that defendant Robert E. McLellan inherited the subject property from his father, James C. McLellan in its condition as complained by the State of Ohio. The Court has further considered the size and extent of the contamination, the effect upon public health and actual harm, if any, to any person. The Court has further

considered defendant's economic position and the fact that he is indigent. Further, the Court has considered defendant's good faith and the penalty large enough to financially hurt the defendant and deter the defendant and those similarly situated.

The Court has further considered the impact of the appropriate penalty that could be ruinous or otherwise disabling.

The Court has considered all of the above and other considerations contemplated by the law. The Court recognizes as well that the actual civil penalty assessed is left to the broad discretion of the Court.

The Court therefore imposes a civil penalty of \$25.00 for each of the four (4) violations, for a total of \$100.00.

Judgment is therefore rendered in favor of the State of Ohio, ex rel Marc Dann, Attorney General, against Robert E. McLellan in the sum of \$400.00. Defendant to pay costs. Judgment for costs.

IT IS SO ORDERED.

Dated: 1/16/08


RICHARD K. WARREN, Judge

cc: Brian Ball
Gregory W. Donohue