

IN THE COURT OF COMMON PLEAS
AUGLAIZE COUNTY, OHIO
CRIMINAL DIVISION

AUGLAIZE COUNTY
COMMON PLEAS COURT
FILED

2007 JAN 11 PM 3:05

SUE ELLEN KOHLER
CLERK OF COURTS

STATE OF OHIO
Plaintiff

vs.

T&S MACHINE, INC.
Defendant

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Case No. 2006-CR-119

JOURNAL ENTRY --
ORDERS ON FINDING
OF GUILT AND SENTENCE

This January 10, 2007, the Defendant came before the Court for the purpose of a Change of Plea hearing. The Defendant appeared in Court represented by Attorney Donald Witter, the State of Ohio being present represented by Attorneys Robert W. Cheugh and Brian A. Ball of the Attorney General's Office.

The State of Ohio advised the Court that, in accordance with the provisions of Criminal Rule 11(F) of the Ohio Rules of Criminal Procedure, the following plea negotiations had taken place:

- a) The Defendant would ask for leave of Court to withdraw its plea of Not Guilty to Count II of the Indictment;
- b) The State of Ohio would ask for leave of Court to Amend Count II of the Indictment in accordance with the Negotiated Plea Agreement filed herewith;
- c) The State of Ohio would ask for leave of Court to Nolle Prosequi Count I of the Indictment.
- d) The Defendant would then plead Guilty to Count II of the Amended Indictment;

The Defendant and its attorney both advised the Court that negotiations had been carried on and that the Defendant's understanding of what had taken place conformed with the State's representation.

The Defendant did then ask leave of Court to withdraw its plea of Not Guilty to Count II of the Indictment.

The Court, upon inquiry, finds that the Defendant understands the charge against it and the consequences of its withdrawing said plea of Not Guilty and the

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Defendant is granted leave to and did then withdraw said Not Guilty plea to Count II of the Indictment.

The State of Ohio did ask for leave to Amend Count II of the Indictment. The Court finds said Motion to be well taken and the same is SUSTAINED. The Court ORDERS that Count II of the Indictment be AMENDED in accordance with the Negotiated Plea Agreement filed herewith.

The State of Ohio did ask for leave to Nolle Prosequi Count I of the Indictment. The Court finds that said motion is well taken and the same is SUSTAINED and the Court ORDERS that Count I of the Indictment be DISMISSED upon the completion of Sentencing.

The Court did then inquire if the Defendant had been explained the pleas that were available to it. The Defendant advised the Court that the pleas available to it had been explained, that it understood them and was ready to plead.

The Defendant then entered its plea of Guilty to Count II the Amended Indictment.

Upon inquiry, the Court finds that the Defendant has voluntarily requested leave of Court to withdraw its previous plea of Not Guilty and has asked the Court to accept the plea of Guilty with a full understanding of the nature of the charge and of the maximum penalties involved.

The Court further inquired of the Defendant:

1. Whether the Defendant fully understood the effect of its plea of Guilty and that the Court, upon acceptance of the plea, might proceed with judgment and sentence;
2. Whether the Defendant understood that by entering its plea of Guilty, it would be waiving its right to a trial by jury or trial to the Court, its right to confront witnesses against it, to have compulsory process for obtaining witnesses in its favor, and the right to have the State prove it guilty beyond a reasonable doubt in a trial before the Court or before a jury wherein it could not be compelled to testify; and,
3. Whether the Defendant understood that it might not be eligible for probation.

To all the above inquiries, the Defendant gave an affirmative answer. The Court, being satisfied as to the Defendant's ability and understanding of the charge and of its rights, does accept the plea of Guilty.

The Court did then inquire of the State as to what conduct caused the charge to be filed against the Defendant.

The Court is fully satisfied that the Defendant did commit each of the elements contained in the offense as charged, and is convinced that the Defendant fully understands the nature of the charge against it and the consequences of its plea of Guilty.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT FINDINGS BE RENDERED against the Defendant as follows:

AMENDED COUNT II – a charge of ILLEGAL EMISSION OF AN AIR CONTAMINANT, in violation of Ohio Revised Code §3704.05, an UNCLASSIFIED MISDEMEANOR-- GUILTY.

The Court inquired of the Defendant and Defendant's attorney as to whether either of them had any reason why Sentence should not be imposed, both answering in the negative.

Prior to imposing Sentence, the Court asked the Defendant and Defendant's attorney if they wished to address the Court in mitigation of punishment.

It is the Sentence of the Court that the Defendant be sentenced on the charge of:

AMENDED COUNT II – the charge of ILLEGAL EMISSION OF AN AIR CONTAMINANT, in violation of Ohio Revised Code §3704.05, an UNCALISSIFIED MISDEMEANOR to a fine of \$25,000.00 and assessed the costs.

The Court further ORDERS that the Defendant pay through the office of the Clerk of Courts, said fine of \$25,000.00 and Court costs.

Defense counsel moved the Court to suspend said fine and the Court takes said Motion UNDER ADVISEMENT.

Costs assessed to the Defendant. Judgment for fine and Court costs.

The Clerk of Courts shall cause a copy of this Journal Entry to be served on Attorney Donald Witter, 101 N. Elizabeth Street, P.O. Box 1217, Lima, Ohio 45802-1217 by Regular U.S. Mail, to Attorneys Robert W. Cheugh and Brian A. Ball of the Attorney General's office, 30 East Broad Street, Columbus, Ohio 43215 by Regular U.S. Mail and a copy to the Auglaize County Sheriff's Office by hand delivering same.

IT IS SO ORDERED.


JUDGE FREDERICK D. PEPPLE
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