

IN THE COUNTY COURT
MORROW COUNTY, OHIO

STATE OF OHIO

Plaintiff

v.

MICHAEL FRY

Defendant

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CASE NO. 94-CRB-3180

JUDGE JON P. SCHAEFER

JUDGMENT AND
SENTENCING ENTRY

This cause came in for hearing on the 12th day of September, 1994, with Sue Fitzgerald, Assistant Prosecuting Attorney for Morrow County and David G. Cox, Assistant Attorney General for the State of Ohio, appearing on behalf of the State of Ohio; and the Defendant, being in open Court with his counsel, John Gartland and Richard Fahey.

Whereupon, the Defendant waived the formal reading of the Complaint and acknowledged service of the same. The Court finds, upon inquiry, that the Defendant has knowingly, intelligently and voluntarily waived his right to a trial by jury. Upon said findings, the Defendant further says that he is Guilty of failing to perform a duty imposed by permit, in violation of Sections 6111.07(A) and 6111.99(A) of the Ohio Revised Code, an unclassified misdemeanor, as alleged in Counts I and VII of the Complaint, and Guilty of falsifying reports in violation of O.R.C. Sections 6111.07(C) and 6111.99(D), an unclassified misdemeanor, as alleged in Count XIII of the Complaint.

The Court further finds that the Defendant understands the English language and can read and write English. The Court finds that the Defendant acknowledges that he is a citizen of the United States. The Court further finds that the Defendant

is not now nor has he ever been adjudicated mentally incompetent. The Court further finds that the Defendant was not under the influence of alcohol or drugs at the time of the hearing.

The Court further finds that the Defendant had been served with a copy of the Complaint and that the Defendant has read the same or had it read to him by his counsel. Further, the Court finds that the Defendant did not wish any further explanation of the charges which had been brought against him. The Court finds that the Defendant understands the various pleas available to him, which include the pleas of Guilty, Not Guilty, Not Guilty by Reason of Insanity, and No Contest.

The Court further finds that the Defendant understands that a Guilty plea to the crimes specified constitutes an admission of guilt and a waiver of any and all constitutional, statutory, or factual defenses with respect to such crimes in this case. The Court finds that the Defendant waives a number of important and substantial constitutional, statutory, and procedural rights, which include, but are not limited to, the right to have a speedy and public trial by jury, the right to confront and cross-examine the State's witnesses who testify against the Defendant's interest, the right to have compulsory subpoena process for obtaining witnesses in the Defendant's favor, the right to require the State to prove the Defendant guilty beyond a reasonable doubt on the crimes herein charged at a trial in which the Defendant cannot be compelled to testify against himself, and the right to appeal the judgment of the trial Court should its rulings or verdict be against the Defendant's interest. The Court further finds that the Defendant understands that the Defendant is

pleading Guilty to two misdemeanor crimes which are each punishable by a fine of not more than twenty-five thousand dollars (\$25,000.00), or imprisonment for at least one year, or both, and a misdemeanor crime which is punishable by a fine of not more than twenty-five thousand dollars (\$25,000.00).

The Court finds that the Defendant understands that upon acceptance of a plea of Guilty, the Court may proceed with sentence. The Court further finds that the Defendant asserts that no person has threatened him, promised him leniency, or in any other way coerced or induced him to plead Guilty and that the Defendant's decision to plead Guilty, thereby placing himself, completely and without reservation of any kind, upon the mercy of the Court with respect to punishment, represents the free and voluntary exercise of the Defendant's own will and best judgment. Whereupon, the Court finds that the Defendant entered a plea of Guilty to two counts of failure to perform a duty imposed by permit in violation of Sections 6111.07(A) and 6111.99(A) of the Ohio Revised Code, an unclassified misdemeanor as charged in Counts I and VII of the Complaint, and Guilty of one count of falsifying Reports in violation of Sections 6111.07(C) and 6111.99(D) of the Ohio Revised Code, an unclassified misdemeanor as charged in Count XIII of the Complaint.

The Court, being fully advised as to the facts, hereby accepts the Defendant's plea of Guilty entered herein as knowingly, intelligently and voluntarily made with full knowledge of the consequences thereof, including waivers of all applicable rights and defenses. The Court further finds that the defendant understands the

maximum penalties which the Court may impose herein. The Court further finds the Defendant, based upon the Defendant's plea, the facts and the aforesaid findings of the Court, to be Guilty of two counts of failure to perform a duty imposed by permit in violation of O.R.C. Sections 6111.07(A) and 6111.99(A), unclassified misdemeanors as charged in Counts I and VII of the complaint, and Guilty of one count of falsifying reports in violation of O.R.C. Sections 6111.07(C) and 6111.99(D), an unclassified Misdemeanor, as charged in Count XIII of the Complaint.

Upon acceptance of the Defendant's plea, the Court proceeded to impose sentence upon the Defendant and inquired of Defendant Fry as to whether he had anything to say as to why sentence ought not be imposed on him. Defendant and his counsel addressed the Court. It is therefore Ordered by the Court as follows:

- 1.) Defendant Fry is hereby sentenced to 90 days imprisonment to an appropriate penal institution for violating O.R.C. Section 6111.99(A) as alleged in Count I of the Complaint and to 90 days imprisonment to an appropriate penal institution for violating O.R.C. Section 6111.99(A) as alleged in Count VII of the Complaint to be served concurrently;
- 2.) Defendant Fry is hereby fined \$500 for violating O.R.C. Section 6111.99(A) as alleged in Count I of the Complaint, \$500 for violating O.R.C. Section 6111.99(A) as alleged in Count VII of the Complaint, and \$500 for violating O.R.C. Section 6111.99(D) as alleged in Count XIII of the Complaint, all fines to be paid immediately upon entry of this Judgment and Sentencing Entry and to be paid to Morrow County;
- 3.) Defendant Fry is to pay all Court costs immediately upon entry of this Judgment and Sentencing Entry;
- 4.) Defendant Fry is to relinquish to the Ohio EPA by November 1, 1994 all wastewater and drinking water operators certificates issued to him by the Ohio EPA. Defendant may seek reinstatement of his certificates in accordance with Ohio Administrative Code Rule 3745-7-12, as amended, provided he appear three times within the twelve consecutive months following the entry of this Judgment and

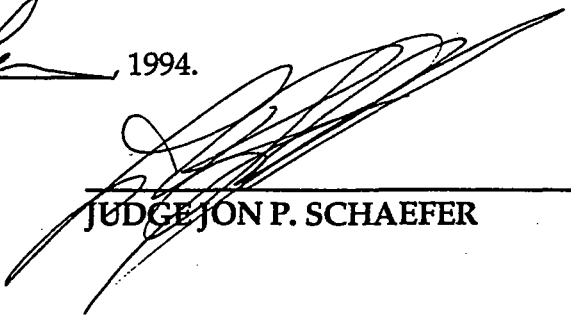
Sentencing Entry at appropriate conferences and seminars, to be arranged by counsel, for the purpose of educating other certified operators of the consequences of violating O.R.C. Chapter 6111. and the regulations adopted thereunder. Application for reinstatement is not a guarantee of reinstatement.

- 5.) That 60 days of the imposition of sentence of imprisonment for Count I and 60 days of the imposition of sentence of imprisonment for Count VII be suspended and that Defendant Fry be placed on probation for the period of two years under the control and supervision of the Ohio Adult Probation and Parole Authority, from the date of entry of this Judgment and Sentencing Entry, upon satisfaction of the conditions attached hereto and made a part hereof and including the following conditions:

- a. Defendant Fry shall serve, beginning ^{/on or before} November 1, 1994, a period of 30 days of home incarceration for violating Count I and 30 days of home incarceration for violating Count VII under the supervision of the Morrow County Sheriff's Department at Defendant's expense, to be served concurrently. In the event Defendant is employed during the period of home incarceration, Defendant is entitled to work release of up to 40 hours each week.
- b. Defendant Fry shall pay restitution to the State of Ohio in the amount of \$3,000, to be paid within 6 months of entry of this Judgment and Sentencing Entry;
- c. Defendant shall comply with all other terms of the sentence imposed herein.
- 6.) Counts II through VI, VIII through XII, and XIV through XXII of the Complaint are dismissed.

Defendant Fry agrees to waive his appellate rights as to the case *sub judice*, and agrees to serve the full term of incarceration and not to apply to the Court for shock probation or to make any other application designed to shorten the period of incarceration.

ENTERED this 14 day of April, 1994.



JUDGE JON P. SCHAEFER

Respectfully Submitted,

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ATTORNEY GENERAL OF OHIO

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Reviewed but not Approved - John P. Gartland

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