

FILED

COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO

2012 OCT 29 PM 2:43

BARBARA A. WILKINSON
CLERK OF COURT

STATE OF OHIO, : CASE NO. 2009-CR-0939

Plaintiff, : Judge Richard P. Ferenc

Vs. :

DONALD COMBS, : FINAL JUDGMENT ENTRY
 : SENTENCING DEFENDANT

Defendant. :

This matter was before the Court on October 26, 2012. The Defendant was present with counsel, R. Daniel Hannon and Timothy A. Smith. Assistant Ohio Attorney General, Robert W. Cheugh, II, represented the State of Ohio.

Counsel for the Parties represented that a plea agreement had been reached and presented to the Court the written "Plea Agreement for Donald Combs." ("Agreement") The Agreement has been filed with the Clerk and is incorporated herein by reference as if fully rewritten.

Based upon the Agreement, the Defendant entered a plea of guilty to Count One of the Indictment, as amended, air pollution, in violation of R.C. 3704.05, an unclassified misdemeanor, and a plea of guilty to Count Two of the Indictment as charged, air pollution, in violation of R.C. 3704.05, an unclassified misdemeanor.

The Court thereafter discussed in detail the nature of each offense, the penalty for each offense, the maximum sentence and fine that could be imposed for each offense, the structure of the sentences that could be imposed, that is, concurrent or consecutive, the terms, conditions and agreements set forth in the Agreement, as well as his rights under Crim.R. 11.

The Defendant acknowledged that he was not under the influence of any medications or other substances that could impair his understanding of the matters before the Court and that he clearly and fully understood the nature of

cc Counsel / Plaintiff / Pros. / P.Rob

the charges, the potential penalties that could be imposed, the terms and conditions of the Agreement and his rights under Crim.R. 11.

Based upon the colloquy of the Court with the Defendant and his answers to the questions posed by the Court,

THE COURT FINDS, that the Defendant's pleas were entered knowingly, intelligently and voluntarily and, therefore,

THE COURT FURTHER FINDS, that the Defendant is guilty of air pollution in Count One, as amended, and air pollution in Count Two, as charged, both in violation of R.C. 3704.05 and each an unclassified misdemeanor.

The Court further inquired of the parties if a pre-sentence report was necessary in light of the Agreement and all counsel and the Defendant waived such a report and agreed that sentencing could go forward immediately. The Court once again reviewed the Agreement, allowed all counsel to make any statements regarding the sentence and afforded the Defendant his right of allocution regarding his sentence.

The Court, having considered the Agreement, statements of counsel and the Defendant, issues the following order:

IT IS HEREBY ORDERED, that the Defendant, having been found guilty of two counts of air pollution based upon his pleas of guilty shall be sentenced as follows:

- (1) The Defendant is placed on a period of court monitored community control for one year, subject to the following terms and conditions:
 - i. The Defendant shall comply with the Order of Permanent Injunction filed in Clermont County Court of Common Pleas Case No. 2009-CVH-1019.
 - ii. Remove and dispose of all solid waste in an approved manner or become registered as a Class IV composting facility.
 - iii. Immediately cease and desist the unauthorized burning and burial of solid waste on the property and remove and properly dispose of buried solid waste.

- iv. Remove and properly dispose of scrap tires on the property or the tires must be emptied of water and stored so water does not accumulate in them.
- v. Refrain immediately from any future violations of the Revised Code resulting in the creation of a public nuisance.
- vi. Comply with all recommendations regarding any violations of the Revised Code resulting in the creation of a public nuisance issued by the Clermont County Health District, Ohio Environmental Protection Agency, Hamilton County Environmental Services and Bureau of Criminal Identification & Investigations, Environmental Enforcement Unit.

(2) The Defendant is given credit for the period of incarceration he served previously in this matter from December 2, 2010, until discharged from the county jail as appears of record.

(3) No fine shall be imposed and no restitution is ordered and any payments the Defendant may have made as a result of his original conviction in this matter shall be deemed as appropriate financial sanctions and no other financial sanctions, other than the final court costs incurred after the case was remanded from the Twelfth District Court of Appeals and related to subsequent proceedings in this Court, shall be imposed and the Defendant shall not seek any return or reimbursement of any amounts paid to the State as a result of his prior conviction in this matter.

(4) The Defendant shall pay court costs, but only those incurred after the case was remanded from the Twelfth District Court of Appeals and returned to this Court's active docket and concluded as set forth herein.

IT IS FURTHER ORDERED, that the Defendant is not required to report to the Adult Probation Department, however, the Adult Probation Department may monitor the Defendant's payment of court costs to insure payments are timely and fully paid by the Defendant.

IT IS FURTHER ORDERED, that should the Defendant violated the terms and conditions as herein set forth, the Court will impose a jail term of ninety (90) days in the Clermont County Jail, to be served consecutively with that in Case No. 2012-CR-0403.



Richard P. Ferenc, Judge

INSTRUCTIONS TO THE CLERK:

Please serve this Judgment Entry Sentencing Defendant upon counsel of record as follows:

Robert W. Cheugh, II
Asst. Ohio Atty. General
30 East Broad Street, 25th Fl.
Columbus, OH 43215

Timothy A. Smith
810 Sycamore Street
Cincinnati, OH 45202

R. Daniel Hannon
10 South Third Street
Batavia, OH 45103

Donald Combs
1779 Parker Road
Milford, OH 45150

and a copy to the Clermont County Adult Probation Department.