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PERRY COUNTY

IN THE COURT OF COMMON PLEAS, PERRY COUNTY, OHIO
2023 JUN 14 PM 3:08

The State of Ohio, :
Plaintiff, : Case No. 22-CR-0090
vs. :
Benjamin Altier, : PLEA OF GUILTY
Defendant. :

WESLEY T HARLAN
CLERK OF COURT

I, the undersigned, Benjamin Altier, hereby enter a plea of GUILTY to the following offenses:

- Ct. 1: THEFT (Value between \$1,000-\$7,500)
(R.C. Section 2913.02 (A) (3) and (B) (2))
FELONY OF THE FIFTH DEGREE**
- Ct. 3: KNOWINGLY IMPROPERLY STORE OR DISPOSE OF BRINE
(R.C. Sections 1509.22(B) (2) (a) and 1509.99(C))
UNCLASSIFIED MISDEMEANOR**

MAXIMUM PENALTY:

I understand that the maximum penalty as to the above offense in **Count 1** is as follows:

The charge of Theft, a felony of the fifth degree, carries a maximum penalty of a definite term of twelve (12) months in a state penal institution and a maximum fine of up to \$2,500.00.

I understand that the maximum penalty as to the above offense in **Count 3** is as follows:

The charge of Knowingly Improperly Store or Dispose of Brine, an unclassified misdemeanor, carries a maximum penalty of six (6) months imprisonment or a fine of \$10,000.00, or both.

Court costs, restitution and other financial sanctions including fines, day fines, and reimbursement for the cost of any sanctions may also be imposed.

Notice is hereby given pursuant to Revised Code §2947.23 (A)(1) that if you fail to pay the judgment for costs or fail to make payments toward the judgment under a payment schedule approved by the court, the court may order you to perform community service in an amount of not more than forty hours per month until the judgment is paid or until the court is satisfied that you are in compliance with the approved payment schedule. You are further notified that you will receive credit upon the judgment at the specified hourly credit rate per hour of community service performed and each hour of community service performed will reduce the judgment by that amount.

I understand that pursuant to the provisions of Revised Code 2901.07, I will be required to submit to a DNA specimen collection procedure administered by the director of rehabilitation and correction, the chief administrative officer of the jail or other detention facility in which I am ordered to serve a period of local incarceration or by the chief administrative officer of the court's probation department or the adult parole authority. The specimen will be collected by blood being withdrawn or by swabbing for buccal cells or a similar noninvasive procedure. Once collected, I understand that the DNA specimen will be forwarded to the Ohio Bureau of Criminal Identification and

Investigation where the results will be maintained as part of a DNA database.

I understand that if I am now on felony probation, parole, under a community control sanction, or under post release control from prison, this plea may result in revocation proceedings and any new sentence could be imposed consecutively. I know any prison term stated will be served without good time credit unless I am eligible for and productively participate in certain programs developed by the Ohio Department of Corrections. Such credit is not automatic, it must be earned under the circumstances set forth in Revised Code Section 2967.193.

POST-RELEASE CONTROL. In addition, a period of supervision by the Adult Parole Authority after release from prison is discretionary in this case. If I am sentenced to prison for a felony sex offense, after my prison release I will have five (5) years of post-release control under conditions determined by the Parole Board. If I am sentenced to prison for a felony of the first degree that is not a felony sex offense, up to five years but not less than two years of post-release control shall be imposed. If I am sentenced to prison for a felony of the second degree that is not a felony sex offense, up to three years but not less than eighteen months of post release control shall be imposed. If I am sentenced to prison for a felony of the third degree that is an offense of violence that is not a felony sex offense, up to three

years but not less than one year of post release control shall be imposed. If I receive prison for a felony 3 that is not an offense of violence, a felony 4, or a felony 5, I may be given up to 2 years of post-release control. A violation of any post-release control rule or condition can result in a more restrictive sanction while I am under post- release control, and increased duration of supervision or control, up to the maximum term and reimprisonment even though I have served the entire stated prison term imposed upon me by this Court for all offenses. If I violate conditions of supervision while under post-release control, the Parole Board could return me to prison for up to nine (9) months for each violation, for a total of 1/2 of my originally stated prison term. If the violation is a new felony, I could receive a prison term of the greater of one (1) year or the time remaining on post-release control, in addition to any other prison term imposed for the offense.

You have the right to appeal and to have notice of a timely appeal filed on your behalf. If you are indigent, you have the right to have an appeal filed with no cost to you and to have documents provided without payment by you and the right to have counsel appointed without cost.

COMMUNITY CONTROL. If this Court is not required by law to impose a prison sanction, it may impose community control sanctions or non-prison sanctions upon me. I understand that if I violate the terms or conditions of a

community control sanction, the Court may extend the time for which I am subject to this sanction up to a maximum of five (5) years, impose a more restrictive sanction, or imprison me for up to the maximum stated term allowed for the offenses as set out above.

I understand the nature of the charges and the possible defenses I might have. I am satisfied with my attorney's advice and competence. I am not under the influence of drugs or alcohol. No threats have been made to me. No promises have been made except as part of this plea agreement stated entirely as follows:

For the offenses of Count 1: Theft, a felony of the fifth degree, and Count 3: Knowingly Improperly Store or Dispose of Brine, an unclassified misdemeanor, the State will recommend to the Court that I receive a sentence of Community Control under the standard terms of Community Control with a special condition that I be incarcerated in the Southeastern Ohio Regional Jail for a period of thirty (30) days for each count, to be served concurrently. Further, by the time of my change of plea hearing, I will pay restitution in full through the Clerk of Courts, jointly and severally with Altier Brothers, Inc., in the amount of \$5,129.16 payable to the ODNR Division of Oil and Gas Resources Management, and complete any other special terms of community control recommended by the Perry County Court of Common Pleas Adult Probation Department and ordered by the Court. The State will recommend that Count 2 and Count 4 be dismissed at sentencing. Defendant to pay court costs. The parties otherwise reserve the right to speak at sentencing.

I understand that the Judge is not bound by the Prosecutor's recommendation and can reject the Prosecutor's recommendation. If the Judge rejects the Prosecutors recommendation, I understand that she can impose a sentence ranging from the minimum to the maximum permitted by law for Count 1 and Count 3.

I understand by pleading GUILTY I give up my right to a jury trial or court trial, where I could confront and have my attorney question witnesses against me, and where I could use the power of the court to call witnesses to testify for me. I know at trial I would not have to take the witness stand and could not be forced to testify against myself and that no one could comment if I chose not to testify. I understand I waive my right to have the prosecutor prove my guilt beyond a reasonable doubt on every element of each charge.

By pleading guilty I admit committing the offenses and will tell the Court the facts and circumstances of my guilt. I know the judge may either sentence me today or refer my case for a presentence report. I understand my right to appeal a maximum sentence, my other limited appellate rights and that any appeal must be filed within thirty (30) days of my sentence. I understand the consequences of a conviction upon me if I am not a U.S. citizen. I enter this plea voluntarily.

Dated: 6/12/2023

Benjamin Altier

Benjamin Altier
Defendant

Matthew B. Meyer
Matthew B. Meyer (0075253)
Kenneth Edbert, Jr. (0042321)
Assistant Attorneys General
Special Prosecuting Attorneys

Terry J. Rugg
Terry J. Rugg (0081686)
Attorney for Defendant

IN THE COURT OF COMMON PLEAS, PERRY COUNTY, OHIO

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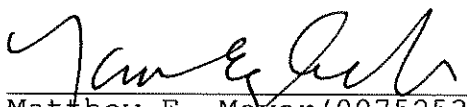
The State of Ohio, :
Plaintiff, :
vs. :
Benjamin Altier, :
Defendant. :

Case No. 22-109-009 PARLAN
CLERK OF COURT

MOTION TO DISMISS COUNTS

Now comes the State of Ohio, by and through the Special Prosecuting Attorneys and Assistant Ohio Attorneys General, and moves this Court to dismiss Count 2 and Count 4 of the Indictment for the reason that pursuant to the negotiated plea agreement, the State of Ohio agreed to dismiss Count 2 and Count 4 upon Defendant entering a guilty plea to Count 1 and Count 3 of the Indictment. The State's motion to dismiss counts was agreed to be requested at the time of sentencing with costs to Defendant.

Respectfully submitted,


Matthew E. Meyer (0075253)
Kenneth Egbert, Jr. (0042321)
Assistant Attorneys General
Special Prosecuting Attorneys

Dated: 6/12/23

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**IN THE COURT OF COMMON PLEAS
PERRY COUNTY, OHIO**

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WESLEY T HARLAN
CLERK OF COURT

The State of Ohio, :
 :
 Plaintiff, : Case No. 22-CR-0090
 :
 vs. :
 :
 Benjamin Altier, : **JOURNAL ENTRY**
 :
 Defendant. :

This day, June 12, 2023, came Kenneth Egbert, Jr., Assistant Ohio Attorney General and Special Prosecuting Attorney of Perry County, Ohio, on behalf of the State of Ohio, and also came the Defendant, Benjamin Altier, accompanied by his counsel, Terry J. Rugg, for further proceedings upon the indictment heretofore returned against the Defendant, charging him with Count 1: Theft (R.C. Section 2913.02(A)(3) and (B)(2), a felony of the fifth degree; Count 2: Knowingly Place or Discharge Brine, Crude oil, Natural Gas, or Other Fluids (R.C. Sections 1509.22(A) and 1509.99(C)) and Count 3: Knowingly Improperly Store or Dispose of Brine (R.C. Sections 1509.22(B)(2)(a) and 1509.99(C)), unclassified misdemeanors; and Count 4: Tampering With Records-Purpose to Defraud, Falsify, Destroy, Remove, Government Record, a felony of the third degree.

Thereupon, the Defendant informed the Court that he wished to withdraw his former plea of "Not Guilty" and to enter a plea of "Guilty" to Count 1: Theft (R.C. Section

2913.02(A)(3) and (B)(2), a felony of the fifth degree, and Count 3: Knowingly Improperly Store or Dispose of Brine (R.C. Sections 1509.22(B)(2)(a) and 1509.99(C)), an unclassified misdemeanor.

The Court, FINDING said plea to be voluntarily, knowledgeably and intelligently made, with full awareness of the consequences, and after ample opportunity for consultation with counsel, and further FINDING it to be factually true that said crimes were committed by the Defendant as alleged, accepted the Defendant's plea of "Guilty" and found the Defendant "Guilty" of Count 1: Theft (R.C. Section 2913.02(A)(3) and (B)(2), a felony of the fifth degree, and Count 3: Knowingly Improperly Store or Dispose of Brine (R.C. Sections 1509.22(B)(2)(a) and 1509.99(C)), an unclassified misdemeanor.

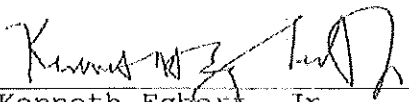
Pursuant to plea negotiations, the State of Ohio filed a motion to dismiss Count 2 and Count 4 upon the Defendant entering a plea of "Guilty" to Count 1 and Count 3.

The Court, having received a pre-sentence investigation report, proceeded with sentencing.

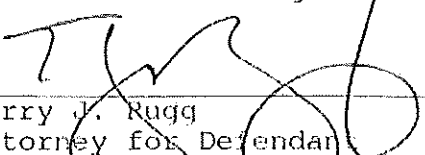


Judge Tina M. Boyer

APPROVED:



Kenneth Egbert, Jr.
Special Prosecuting Attorney



Terry J. Rugg
Attorney for Defendant

IN THE COMMON PLEAS COURT OF PERRY COUNTY, OHIO

STATE OF OHIO, : 2023 JUN 14 PM 3: 09
 PLAINTIFF, : CASE NO. 22-CR-0090
 v. : JUDGE TINA M. BOYER WESLEY T HARLAN
 BENJAMIN ALTIER, : UNIFORM SENTENCING ENTRY
 DEFENDANT. :

This case came before the Court on June 12, 2023, for sentencing pursuant to R.C. 2929.19. The defendant was present in the courtroom. Counsel for the defendant Terry Rugg, was present. The State of Ohio, as represented by Kenneth Egbert, Jr. was present.

The Court gave defense counsel an opportunity to speak and present mitigation on the defendant's behalf, personally addressed the defendant, and provided the defendant an opportunity for allocution. The Court gave the prosecuting attorney an opportunity to address the court.

Having considered all statements in mitigation as well as the statements of the parties, any presentence investigation, any victim impact statement and/or other statement from the victim or victim's representative, as well as the principles and purposes of sentencing in R.C. 2929.11, the seriousness and recidivism factors in R.C. 2929.12, and all other relevant sentencing statutes, the Court pronounced sentence on the defendant as follows.

CONVICTION & FINDINGS

The Court finds that the defendant was found guilty of the following:

Instrument-Type	Count	Offense	Offense Level	Disposition	Date (M/D/Y)
IND	1	2913.02(A)(3) - Theft	F5	Guilty Plea	06/12/2023
IND	3	1509.22(B)(2)(a) and 1509.99(C) knowingly improperly store or dispose of brine	Unclassified misdemeanor	Guilty Plea	06/12/2023

SENTENCE

The Court has considered the presentence investigation. The Court has considered the factors in R.C. 2929.13, finds the defendant amenable to available community control sanctions, and sentences the defendant to a term of three (3) year[s] community control supervision under the Court's standard terms of Community Control. The Court reserves the right pursuant to R.C. 2929.15 to modify the conditions of community control, to extend the period of supervision, or to impose more restrictive sanctions if the defendant is found to be in violation of community control.

The defendant was informed that violation of any conditions of community control sanctions, violations of law, or leaving the state without the permission of the Court may result in imposition of a reserved prison term from the range of prison terms for the offense as detailed below:

Count	Length Of Comm Control	Reserved Sentence Range Definite	Reserved Sentence Range Indefinite Minimum	Mandatory Fine
1	3 years	6-12 months		No

The Court imposes the following residential sanction(s) pursuant to R.C. 2929.16(A):

A thirty (30) days term of incarceration at Southeastern Ohio Regional Jail.

The Court imposes the following nonresidential sanction(s) pursuant to R.C. 2929.17: The defendant must follow all local, state, and federal laws and ordinances, and may not leave the state without the permission of his probation officer.

That the defendant performs 50 hours of community service.

The sentence imposed in this case is authorized by law and was recommended jointly by the defendant and the prosecution in the case pursuant to R.C. 2953.08(D).

As a result of the convictions in this case and the imposition of a prison sentence, and pursuant to R.C. 2967.28, the defendant be subject to a period of post-release control of:

- F5 offenses - Up to 2 years of PRC at the discretion of the Parole Board.

The Adult Parole Authority will administer post-release control pursuant to R.C. 2967.28, and the defendant has been advised that if the defendant violates post-release control, the Parole Board may impose a prison term as part of the sentence of up to half of the stated prison term or stated minimum term originally imposed upon the defendant in nine-month increments. If, during the period of the releasee's post-release control, the releasee serves as a post-release control sanction the maximum prison time available as a sanction, the post-release control shall terminate. As part of this sentence, the Defendant is ordered to serve any term of post release control imposed by the parole board, and any prison term imposed for violation of post release control.

If while on post-release control the defendant is convicted of a new felony, the sentencing court will have authority to terminate the post-release control and order a consecutive prison term of up to the greater of twelve months or the remaining period of post-release control.

The Court orders that the defendant shall pay the costs of prosecution and any jury fees permitted pursuant to R.C. 2947.23, as determined by the clerk of courts.

By stipulation of the parties and having considered the defendant's present and future ability to pay, the defendant is ordered to make restitution in the amount of five thousand one hundred twenty-nine and 16/100 dollar(s) (\$5,129.16) to Ohio Department of Natural Resources.

This order of restitution by the Court can be converted to a civil judgment and collected by the victim through a civil action.

The Court orders the defendant be granted zero (0) days of jail time credit on the case up to and including the date of sentencing and excluding conveyance time.

Counts 2 and 4 are dismissed pursuant to the plea agreement.

The defendant was notified of rights to appeal per Crim.R. 32 as well as the defendant's right to have counsel appointed for him and a transcript of all proceedings provided to him at no cost if the defendant is determined to be indigent and unable to afford counsel.

IT IS SO ORDERED.

JUDGE: Julia M. Boyer

DATE: 6/14/23