

IN THE COURT OF COMMON PLEAS  
COUNTY OF SUMMIT

STATE OF OHIO, ) CASE NO. CR-2020-10-2863  
 ) C.A. NO. 30931  
 Plaintiff, )  
 ) JUDGE ALISON MCCARTY  
 vs. )  
 ) VOLUME 1 (of 1 Volume)  
 JOSEPH SENK, )  
 )  
 Defendant. )

**APPEARANCES:**

SALLY MONTELL, Assistant Attorney General,  
 On behalf of the State of Ohio.

JOHN GREVEN, Attorney at Law,  
 On behalf of the Defendant.

- - -

BE IT REMEMBERED that upon the hearing of  
the above-entitled matter in the Common Pleas Court  
Court, Summit County, Ohio, before the **HONORABLE**  
**ALISON MCCARTY**, Judge Presiding, commencing  
June 14, 2023, the following proceedings  
were had, being a Transcript of Proceedings:

**(SENTENCING)**

KELLEY E. SPEARS, RPR  
Official Court Reporter  
Summit County Court of Common Pleas  
Court Reporters Office - First Floor Annex  
209 S. High Street  
Akron, OH 44308

1       \*\*\*\*\*Wednesday, June 14, 2023

P R O C E E D I N G S

— — —

9 MS. MONTELL: Good morning, Your  
10 Honor.

16 And so I am going to turn it over to  
17 the Attorney General's Office to indicate  
18 just for the record also what those  
19 potential sentences are, and then, Miss  
20 Montell, what you're requesting.

21 MS. MONTELL: Yes. Thank you, Judge.  
22 As you know, these are unclassified  
23 felonies, and they have a unique sentencing  
24 structure where the possible penalty is at  
25 least a \$10,000 fine up to a \$25,000 fine,

1                   or a minimum of two years in prison up to  
2                   four years in prison, or both.

3                   THE COURT: Say that again, a minimum  
4                   of two to four?

5                   MS. MONTELL: Two to four.

6                   THE COURT: Indefinite, or two, three  
7                   or four?

8                   MS. MONTELL: This says two up to  
9                   four, or both.

10                  THE COURT: Okay. That is a strange  
11                  unclassified -- that's strange.

12                  MS. MONTELL: It is. It says at  
13                  least two but not more than four.

14                  THE COURT: Okay.

15                  MS. MONTELL: Or both the fine and  
16                  prison. So it has to be at least a \$10,000  
17                  fine or two years in prison.

18                  THE COURT: Okay. Also  
19                  probationable?

20                  MS. MONTELL: Yes.

21                  THE COURT: I understand. I can't  
22                  just give him one year even if I wanted to.

23                  MS. MONTELL: Correct.

24                  THE COURT: Okay. I understand.

25                  MS. MONTELL: So the State of Ohio,

1                   you know, we have a couple concerns in this  
2                   case. The biggest concern is re-offending.  
3                   So Mr. Senk has been out on bond in this  
4                   case for a long time, and he has continued  
5                   to engage in these activities.

6                   So considering that fact and that he  
7                   has a prior conviction for this offense in  
8                   Cuyahoga County where he was put on  
9                   community control, we're only asking for  
10                  community control, but we would like a  
11                  modest 60-day jail term just to help  
12                  encourage him to not offend in the future.

13                  So we're asking for the \$10,000  
14                  minimum fine, a long term of community  
15                  control, again, to get him to comply with  
16                  Ohio scrap tire laws, and 60 days in jail.

17                  THE COURT: Mr. Greven.

18                  MR. GREVEN: Thank you, Your Honor.  
19                  Good morning.

20                  Judge, I guess before we even get  
21                  started, he, himself, did file three  
22                  notices.

23                  THE COURT: I have them here. We can  
24                  talk about that.

25                  MR. GREVEN: Yes. Frankly, I told

1 him that they were nonsensical. And since  
2 he filed them, not me, I don't know if the  
3 Court even feels the need to address them or  
4 not.

13 So that being said, that means the  
14 Court would be striking these because I  
15 can't consider them if Mr. Greven's  
16 representing you.

17 You understand?

18 THE DEFENDANT: Yeah.

19 THE COURT: Okay.

20 MR. GREVEN: Second of all, I've had  
21 discussions with him. Just so the Court  
22 knows, he does wish to appeal this. He is  
23 indigent, so I would ask the Court to  
24 appoint someone who will file within the  
25 statutory time period.

7 I would ask the Court to put him on  
8 community control. He understands that  
9 there is going to be a fine. He understands  
10 that the Court can impose upon him any  
11 provisions that it wants.

19 So I'm just going to ask the Court to  
20 place him on community control.

25 I did review the PSI, and I know you

1 did speak with the probation officer, but  
2 it's up to you.

3 THE DEFENDANT: Is this a court of  
4 record for prosperity [sic]?

5 THE COURT: You have to move forward  
6 so I can hear you.

7 THE DEFENDANT: Is this a court --

8 THE COURT: We are a court of record,  
9 and your words are being recorded for  
10 posterity.

11 THE DEFENDANT: Okay. I do not  
12 consent to the trial. I do not consent to  
13 what's going on here. And I don't consent  
14 to these charges. I just don't consent. I  
15 don't understand -- I don't understand them.

16 THE COURT: All right. And do you  
17 wish to appeal your conviction?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Okay. So what I normally  
20 do, based on Mr. Greven's representation  
21 that you're indigent, the Court would  
22 appoint a lawyer to represent you. But I  
23 always appoint a different lawyer from the  
24 one that did your trial so that it's fresh  
25 eyes that can look at the case and examine

1                   not only the conduct of the court, but also  
2                   the conduct of your lawyer as well as the  
3                   prosecutor.

4                   Do you understand?

5                   THE DEFENDANT: Yes.

6                   THE COURT: Okay. And so I'll figure  
7                   out who that's going to be, and we'll put  
8                   that in the journal entry. You'll be aware  
9                   of that.

10                  But it's kind of hard to know what to  
11                  do with you, Mr. Senk, because I know you do  
12                  have some medical conditions, the severity  
13                  of which nobody disputes.

14                  But you have been convicted of this  
15                  offense before, so I believe you're fully  
16                  aware of what you can and can't do.

17                  The Court received a thorough  
18                  education on the dangers of people that  
19                  hoard scrap tires and the illegal transport  
20                  of them. I was never really aware of the  
21                  fact that once a tire starts burning, it  
22                  basically almost never goes out. And the  
23                  way that you put it out is extraordinary.  
24                  This is not the way to do it, and it puts  
25                  many, many people at risk.

1                   And you engaged in blatant, blatant  
2 behavior despite the fact that you've been  
3 in trouble before. You've been warned  
4 numerous times. I mean, the State warned  
5 you over and over and over again to stop  
6 doing it, and you have not stopped doing it.  
7 And so I think you're making a pretty penny  
8 doing it on the down-low.

9                   And from the information I received  
10 at the trial, it appeared that you might  
11 have been falsifying documents to show how  
12 legitimately they should have accepted them  
13 to be, to show these tire companies, these  
14 businesses so that they would work with you.  
15 That's very distressing as well. So I find  
16 your behavior completely unacceptable.

17                   So I am fining you \$10,000. And I'm  
18 going to sentence you to two years of  
19 community control, but I'm also going to  
20 order that you are to serve 90 days in the  
21 Summit County Jail. And you're going to be  
22 taken into custody right now.

23                   You are also not to in any way  
24 illegally transport or possess scrap tires  
25 in any amount. Even though the law might

1                   allow you do it, while you're on probation  
2                   you're not do to any business whatsoever  
3                   with scrap tires; transporting, storing,  
4                   messing with them in any way.

5                   My probation officers are going to be  
6                   able to come out and search your property to  
7                   make sure that there are no scrap tires  
8                   anywhere on your property.

9                   Do you understand that?

10                  THE DEFENDANT: Yes.

11                  THE COURT: Okay. All right. I'll  
12                  just remind you, I could give you two, three  
13                  or four years in prison if you were to  
14                  violate the conditions of my probation.

15                  I will, of course, allow you to  
16                  appeal, and I will appoint a lawyer to  
17                  represent you. I'll make sure that that  
18                  attorney is aware of this and that that  
19                  attorney files a timely notice of appeal for  
20                  you.

21                  THE DEFENDANT: Can I get time served  
22                  for the time I've already been in jail?

23                  THE COURT: That will count against  
24                  the jail time, yeah, 90 days. You'll get  
25                  credit for the days you did, 23, okay?

1                   THE DEFENDANT: Okay.

2                   THE COURT: All right.

3                   (Proceedings concluded.)

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C E R T I F I C A T E

I, Kelley E. Spears, RPR, Official  
Shorthand Reporter for the Court of Common  
Pleas, Summit County, Ohio, duly appointed  
therein, do hereby certify that I reported in  
Stenotypy the proceedings had and testimony  
taken in the foregoing-entitled matter  
consisting of 12 pages, and I do further  
certify that the foregoing-entitled  
TRANSCRIPT OF PROCEEDINGS conducted before  
the HONORABLE ALISON MCCARTY, Judge  
presiding, is a complete, true and accurate  
record of said matter and TRANSCRIPT OF  
PROCEEDINGS.

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KELLEY E. SPEARS, RPR  
Official Court Reporter