

Eastern District of Kentucky

TENDERED

Date: 7-16-07
LESLIE G. WHITMER
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
PIKEVILLE

CRIMINAL ACTION NO. 07-¹⁶~~4~~-GFVT

UNITED STATES OF AMERICA

PLAINTIFF

V.

PLEA AGREEMENT

EARL JERRY SPARKS

DEFENDANT

* * * * *

1. Pursuant to Federal Rule of Criminal Procedure 11(c), the Defendant will enter a guilty plea to the sole Count of an Information charging him with a violation of 18 U.S.C. § 1018, Making or Delivering a False Certificate or Writing. Pursuant to Rule 11(c)(1)(A), the United States will move at sentencing to dismiss all Counts in Indictment 07-04-GFVT.

2. The essential elements of 18 USC § 1018 are:

- (a) The defendant was a public officer or other person authorized by any law of the United States to make or give a certificate or other writing
- (b) The defendant made and delivered as true a certificate or writing containing a statement which defendant knew to be false,
- (c) The false statement was material, and
- (d) The court must find that the punishment for such an offense is not elsewhere expressly provided by law.

3. As to the sole Count of the Information, the United States could prove the following facts that establish the essential elements of the offense beyond a reasonable doubt, and the Defendant admits these facts:

(a) The defendant was the Project Manager and Team Leader of the Eastern Kentucky Regulatory Office, US Army Corps of Engineers.

(b) On or about December 8, 2004, defendant produced a document addressed to B&W Resources of Hazard, Kentucky.

(c) The document falsely represented that James W. Townsend, Chief of the Regulatory Branch of the Operations Division of the Army Corps of Engineers had reviewed an application submitted by B&W Resources to engage in certain mining activities, and had authorized those activities with certain restrictions,

(d) The defendant knew, at the time he produced that document, that Mr. Townsend had not reviewed B&W's application and had not authorized the mining activities as stated in the letter. Defendant placed Mr. Townsend's signature on the document by photocopying Townsend's signature from a genuinely signed document and pasting that signature on the new document.

(e) The defendant caused the document to be delivered to B&W Resources in Hazard, Kentucky by facsimile.

4. The maximum statutory punishment is one year imprisonment, a fine of not more than \$125,000.00, and a term of supervised release of not more than 1 year.

A mandatory special assessment of \$25.00 applies, and the Defendant will pay this assessment to the U.S. District Court Clerk at the time of the entry of the plea.

5. There is no agreement concerning what sentence the defendant should receive.

6. No agreement exists about the Defendant's criminal history category pursuant to U.S.S.G. Chapter 4.

7. The Defendant waives the right to appeal and the right to attack collaterally the guilty plea, conviction, and sentence, including any order of restitution.

8. After pleading guilty, the Defendant will make a full and complete financial disclosure to the United States and will assist the United States in the gathering of all financial information. The Defendant will complete and sign a financial disclosure statement or affidavit, will sign financial releases prepared by the United States, and will submit to a deposition in aid of collection at times and places that the United States directs.

9. This document contains the complete and only Plea Agreement between the United States Attorney for the Eastern District of Kentucky and the Defendant. The United States has not made any other promises to the Defendant.

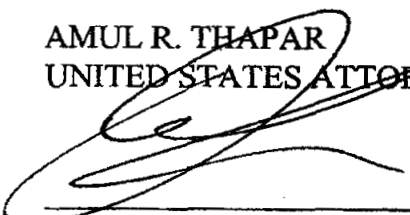
10. This Agreement does not bind the United States Attorney's Offices in other districts, or any other federal, state, or local prosecuting authorities.

11. The Defendant and his attorney acknowledge that the Defendant understands this Agreement, that his attorney has fully explained this Agreement to him, and that his entry into this Agreement is voluntary.

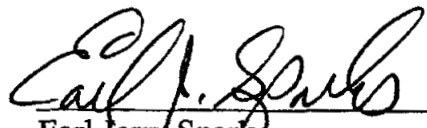
AMUL R. THAPAR
UNITED STATES ATTORNEY

Date: 7-16-07

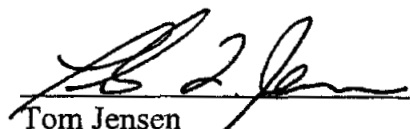
By:


David P. Grise
Assistant United States Attorney

Date: 7/16/07


Earl Jerry Sparks
Defendant

Date: 7/16/07


Tom Jensen
Attorney for Defendant

APPROVED, this _____ day of _____, 2007.

UNITED STATES DISTRICT JUDGE