

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-150624
	:	TRIAL NO. B-1405948
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
STEPHEN DORTON,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Stephen Dorton was charged with two counts of aggravated vehicular homicide. On the day set for trial, Dorton appeared before the trial court and asked to discharge his court-appointed attorneys. He told the trial court that, months before, the clerk’s website had listed his charges as lower counts than they actually were. He complained that his attorneys had done nothing to investigate the discrepancy. When asked why he had waited so long to bring these issues to the trial court’s attention, Dorton said that “other attorneys” whom he could not name had told him he had to do it in person. Dorton’s attorneys indicated that they explained the charges properly, the possible penalties, and the likelihood that one of the two charges would merge. They also indicated that they were ready to proceed with the scheduled trial.

The trial court conducted a hearing and determined that the website discrepancy was likely a clerical error and that none of the charging instruments had been incorrect. The trial court denied the motion. Dorton then entered into a plea agreement with the state wherein he pleaded guilty to one count of aggravated vehicular homicide and he received an agreed seven-year prison term.

In his first two assignments of error, which are argued together, Dorton claims that his attorneys were ineffective for failing to communicate and explain the trial process, and that the trial court erred when it failed to conduct a full hearing on his motion to discharge his court-appointed attorneys. To prove ineffective assistance of counsel, a defendant generally has to demonstrate that counsel's performance was deficient and that the deficient performance was prejudicial. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *State v. Bradley*, 42 Ohio St.3d 136, 141-142, 538 N.E.2d 373 (1989).

The right to counsel does not include a right to a peaceful and meaningful relationship between counsel and the defendant. *State v. Henness*, 79 Ohio St.3d 53, 65, 679 N.E.2d 686 (1997). "Hostility, tension, or personal conflict between an attorney and a client that do not interfere with the preparation or presentation of a competent defense are insufficient to justify the withdrawal of appointed counsel." *State v. Crew*, 8th Dist. Cuyahoga No. 86943, 2006-Ohio-4102, ¶ 17, quoting *State v. Dykes*, 8th Dist. Cuyahoga No. 86148, 2005-Ohio-6636. The right to counsel must be balanced against the court's authority to control its docket, as well as its awareness that a "demand for counsel may be utilized as a way to delay the proceedings or trifle with the court." *Id.*, citing *United States v. Krzyske*, 836 F.2d 1013, 1017 (6th Cir. 1988); *see also State v. Murphy*, 91 Ohio St.3d 516, 523, 747 N.E.2d 765 (2001).

In this case, the record does not support the argument that counsel was ineffective. Dorton's attorneys were ready for trial. Whatever the issue was with the clerk's website, it did not impact the proceedings. Dorton did not indicate that counsel had misrepresented the charges or had given him incorrect information about the proceedings. Additionally, while Dorton argues that he did not receive a full hearing on his motion to discharge appointed counsel, the record reflects that the trial court did conduct a hearing. Other than the issue with the website, there was no

breakdown of the relationship that was so severe that Dorton was entitled to new counsel. We overrule Dorton's first two assignments of error.

In his third assignment of error, Dorton claims that the record does not support his sentence. But a sentence is not subject to review if the sentence is authorized by law, has been jointly recommended by the defendant and the prosecution, and is imposed by the sentencing court. R.C. 2953.08(D); *State v. Gray*, 1st Dist. Hamilton No. C-030132, 2003-Ohio-5837, ¶ 6. In this case, Dorton entered into an agreement with the state in which he agreed to enter a plea of guilty to one count of aggravated vehicular homicide, and the parties agreed to a sentence of seven years in prison. The trial court accepted the plea and imposed the agreed sentence. Therefore, Dorton cannot pursue this challenge to his agreed sentence on appeal. We overrule his third assignment of error and affirm the judgment of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**CUNNINGHAM, P.J., DEWINE and MOCK, JJ.**

To the clerk:

Enter upon the journal of the court on July 6, 2016  
per order of the court \_\_\_\_\_  
Presiding Judge