

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

STATE OF OHIO,	:	APPEAL NO. C-081293
	:	TRIAL NO. B-0800237
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
WILLIAM DAVIS,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant William Davis entered a guilty plea to drug trafficking, in violation of R.C. 2925.03(A)(2). In exchange for the plea, the state dismissed a drug-possession charge and recommended a four-year prison sentence, which the trial court imposed. Davis now appeals.

We address Davis’s two assignments of error out of order. In his second assignment of error, Davis argues that his conviction must be reversed because he was denied due process. Specifically, Davis contends that his plea was involuntary and that it was the result of the ineffective assistance of counsel.

Davis contends that counsel was ineffective in failing to advise him of the option of a no-contest plea, in failing to request an independent drug analysis, and in waiving his speedy-trial rights.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

The two-part test enunciated in *Strickland v. Washington*² applies to challenges to guilty pleas based on the ineffective assistance of counsel.³ First, the defendant must show that counsel's performance was deficient.⁴ Second, the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial.⁵

Davis cannot satisfy the first prong of the test. It is well settled that counsel may waive a defendant's speedy-trial rights to prepare for trial with or without a defendant's consent.⁶ Moreover, the record does not support Davis's contentions with respect to a drug analysis or to counsel's plea advice. In any event, the state may not have agreed to recommend a four-year prison term in exchange for a no-contest plea rather than a guilty plea.

And the record indicates that the trial court engaged in a complete Crim.R. 11(C) colloquy with Davis. Davis stated that he understood the rights he was waiving and the full consequences of his plea. Consequently, his guilty plea was valid.⁷ Because the record supports the conclusion that Davis's plea was knowingly and voluntarily made, and that counsel's performance was not deficient, we overrule the second assignment of error.

In his first assignment of error, Davis argues that the state violated his right to a speedy trial and therefore that his case should have been dismissed. Because a valid

² (1986), 466 U.S. 668, 104 S.Ct. 2052.

³ *Hill v. Lockhart* (1985), 474 U.S. 52, 106 S.Ct. 366; *State v. Xie* (1992), 62 Ohio St.3d 521, 584 N.E.2d 715.

⁴ *Strickland*, supra, 466 U.S. at 687, 104 S.Ct. 2052; *Hill*, supra, 474 U.S. at 57, 106 S.Ct. 366; *Xie*, supra, at 524, 584 N.E.2d 715.

⁵ *Hill*, supra, 474 U.S. at 59, 106 S.Ct. 366; *Xie*, supra, at 524, 584 N.E.2d 715.

⁶ *State v. McBreen* (1978), 54 Ohio St.2d 315, 376 N.E.2d 593, syllabus; *State v. Matthews*, 1st Dist. Nos. C-060669 and C-060692, 2007-Ohio-4881, ¶30.

⁷ See *State v. Nero* (1990), 56 Ohio St.3d 106, 564 N.E.2d 474.

guilty plea waives a defendant's right to challenge his conviction on speedy-trial grounds,⁸ we overrule the first assignment of error and affirm the judgment of the trial court.

Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., SUNDERMANN and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on October 28, 2009
per order of the Court _____.
Presiding Judge

⁸ *State v. Kelley* (1991), 57 Ohio St.3d 127, 566 N.E.2d 658, paragraph one of the syllabus.