

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD LEROY SATTLER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54593

FILED

JUN 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of felony DUI. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Appellant Richard Leroy Sattler claims that the district court abused its discretion in failing to appoint substitute counsel. We disagree. The record shows that he never made an unequivocal request for substitute counsel but rather filed a presentence "Motion for Waiver of Counsel." When Sattler confirmed that he wanted to proceed pro se, the district court scheduled a hearing pursuant to Faretta v. California, 422 U.S. 806, 835 (1975). At the Faretta hearing, Sattler reaffirmed his determination to go forward pro se and mentioned that he would like the court to "appoint someone else." When the district court asked Sattler to articulate a conflict with counsel, he asserted that counsel frequently told him to shut up and referred to an incident that occurred in another case three years before the trial in this case. The district court ruled that Sattler failed to demonstrate an actual conflict that would justify substitute counsel and then completed the Faretta canvass. At a subsequent sentencing hearing, Sattler represented himself.

In this context, where Sattler has filed ambiguous motions and made equivocal requests for substitute counsel, we conclude that: (1) the district court's inquiry, though brief, was adequate under the circumstances, (2) the request—coming after trial—was untimely, and (3) Sattler failed to demonstrate a complete breakdown in the attorney-client relationship. See Young v. State, 120 Nev. 963, 968-69, 102 P.3d 572, 576 (2004) (adopting three-prong test in reviewing rulings on defendant requests for substitute counsel); Garcia v. State, 121 Nev. 327, 339, 113 P.3d 836, 843 (2005) (holding that motion to substitute counsel submitted days before trial was untimely); Gallego v. State, 117 Nev. 348, 364-65, 23 P.3d 227, 238 (2001) (concluding that attorney unresponsiveness to defendant's requests and general contentiousness was insufficient to show complete breakdown of attorney-client relationship). Accordingly, we discern no abuse of discretion. See Thomas v. State, 94 Nev. 605, 607-08, 584 P.2d 674, 676 (1978).

Having considered Sattler's claim and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Sattler, J.
Sattler

Gibbons, J.
Gibbons

cc: Hon. Robert H. Perry, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk