[Cite as *State v. Harris*, 2010-Ohio-4127.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
		No. 09AP-1111
v.	:	(C.P.C. No. 09CR-359)
Charles Harris,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on September 2, 2010

Ron O'Brien, Prosecuting Attorney, for appellee.

Clark Law Office, and *Toki Michelle Clark,* for appellant.

APPEAL from the Franklin County Court of Common Pleas.

BRYANT, J.

{¶1} Defendant-appellant, Charles Harris, appeals from a judgment of the Franklin County Court of Common Pleas finding defendant guilty, pursuant to guilty plea, of four counts of rape and two counts of attempted rape and sentencing defendant to 59 years of imprisonment. Because (1) defendant was not deprived of effective assistance of counsel; (2) the trial court did not err in informing defendant of his verification requirements as a Tier III sexual offender; (3) the trial court did not abuse its discretion in not allowing defendant to withdraw his guilty plea; (4) the trial court did not err in imposing

a sentence consecutive to defendant's federal prison sentence; and (5) the trial court did not abuse its discretion in not allowing defendant to discharge his counsel on the day of sentencing, we affirm.

I. Facts and Procedural History

{¶2} On January 20, 2009, the state indicted defendant on a total of 24 felony counts, including six counts of aggravated robbery in violation of R.C. 2911.01, seven counts of kidnapping in violation of R.C. 2905.01, six counts of rape in violation of R.C. 2907.02, two counts of attempted rape in violation of R.C. 2923.02 as it relates to R.C. 2907.02, one count of felonious assault in violation of R.C. 2903.11, and two counts of tampering with evidence in violation of R.C. 2921.12. Each count of the indictment carried a three-year firearm specification.

{¶3} Defendant's indictment followed his arrest on January 10, 2009, the result of a joint investigation between the FBI violent crimes task force and state officials. The investigation revealed that over a one-week period in December 2008, defendant, while brandishing a handgun, allegedly committed a series of violent take-over robberies of check-cashing businesses in central Ohio during which defendant sexually assaulted female employees of those businesses. Because state and federal authorities jointly conducted the investigation, defendant also was charged in federal court in a nine-count information alleging conspiracy and violation of the Hobbs Act, 18 U.S.C. 1951.

{¶4} On February 10, 2009, the trial court ordered a forensic psychologist to examine defendant to determine his competency to stand trial. Following a written report to which the parties stipulated, the trial court on March 30, 2009 found defendant competent to stand trial.

{¶5} On July 13, 2009, defendant entered a written guilty plea in state court to four counts of rape, one with a three-year firearm specification, and two counts of attempted rape. The guilty plea included a joint recommendation from both federal and state authorities, as well as defendant, that the state trial court sentence defendant to 59 years imprisonment, 33 of which would be served consecutively to any federal sentence to be imposed. Defendant subsequently entered a guilty plea in federal court.

{¶6} On July 24, 2009, the trial court received from defendant two handwritten letters which expressed concerns about the guilty pleas and sought to withdraw them. Based on those letters, the trial court convened a hearing on September 16, 2009 to address defendant's concerns. At that hearing, defendant's counsel stated he "explained the situation in terms of [defendant] being able to withdraw the plea and going forward in the federal system." (Sept. 16, 2009 Tr. 3.) Defendant's counsel then stated, based on conversations with defendant, that "[i]t's my understanding [defendant] wants to keep the deal in place, go forth in sentencing in the federal system and return here for sentencing in the state case." (Sept. 16, 2009 Tr. 3.) The trial court directly addressed defendant and asked, "Is that what you would like to do, Mr. Harris?" Defendant replied, "Yeah, ma'am." (Sept. 16, 2009 Tr. 3.) The trial court also specifically asked defendant whether he was trying to withdraw his plea, and defendant responded, "No, then." (Sept. 16, 2009 Tr. 4-5.) Following the hearing, the trial court continued the matter for sentencing.

{¶7} On October 23, 2009, the federal court sentenced defendant to 62 years of incarceration. Defendant appeared in state court on October 26, 2009 for sentencing pursuant to the plea agreement. After statements from the victims, defendant asked to address the court and stated, "I want to take back that plea and I want [to] go for an

ineffective counsel and I would like to also fire him." (Oct. 26, 2009 Tr. 5.) The trial court responded, "As to whether you can withdraw this plea, I believe we have been through this in court before and talked about whether or not you can withdraw your plea is within my discretion. So I will not allow you to do that." (Oct. 26, 2009 Tr. 5.) When defendant advised the court, pursuant to the court's inquiry, he had nothing else to say on his behalf, the trial court sentenced defendant, in accord with the parties' joint recommendation, to 59 years in prison, 33 of which are to be served consecutively to his federal sentence.

II. Assignments of Error

{¶8} Defendant timely appeals, assigning the following errors:

> ASSIGNMENT OF ERROR NO. 1:
>
> A CRIMINAL DEFENDANT CHARGED WITH A SEX OFFENSE IS DEPRIVED EFFECTIVE ASSISTANCE OF COUNSEL WHEN NO REQUEST IS MADE FOR AN OFFENDER HEARING, RESULTING IN THE IMPOSITION OF A SEXUAL OFFENDER CLASSIFICATION WITH CORRESPONDING COMMUNITY NOTIFICATION.
>
> ASSIGNMENT OF ERROR NO. 2:
>
> A TRIAL COURT ERRS WHEN IT ORALLY INFORMS A DEFENDANT HE MUST "PERIODICALLY" VERIFY HIS RESIDENCY WITH THE COUNTY SHERIFF, YET SETS A "90-DAY" VERIFICATION PERIOD IN THE JUDGMENT ENTRY.
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> ASSIGNMENT OF ERROR NO. 3:
>
> A TRIAL COURT VIOLATES CRIM.R. 32.1 WHEN IT FAILS TO GRANT A MOTION TO WITHDRAW PLEA PRIOR TO THE IMPOSITION OF SENTENCE.

ASSIGNMENT OF ERROR NO. 4:

A TRIAL COURT VIOLATES O.R.C. SECTION 2929.14 WHEN IT SENTENCES A DEFENDANT TO A SENTENCE CONSECUTIVE TO A FEDERAL SENTENCE.

ASSIGNMENT OF ERROR NO. 5:

A TRIAL COURT ERRS WHEN IT FAILS TO ALLOW A CRIMINAL DEFENDANT TO TERMINATE HIS ATTORNEY.

III. First Assignment of Error – Ineffective Assistance of Counsel

{¶9} In his first assignment of error, defendant asserts his defense attorney's failure to request a sex offender hearing following his conviction for a sex offense deprived him of his constitutional right to the effective assistance of counsel.

{¶10} To prove ineffective assistance of counsel, defendant must demonstrate his counsel's performance was deficient. *Strickland v. Washington* (1984), 466 U.S. 668, 687, 104 S.Ct. 2052, 2064. Defendant thus must show his counsel made errors so serious that counsel was not functioning as the "counsel" the Sixth Amendment guarantees. Id. Defendant also must establish that his counsel's deficient performance prejudiced him, demonstrating that counsel's errors were so serious as to deprive defendant of a fair trial, a trial whose result is reliable. Id. Unless defendant demonstrates both prongs, it cannot be said the conviction resulted from a breakdown in the adversary process that renders the result unreliable. Id.

{¶11} Defendant entered guilty pleas to four counts of rape and two counts of attempted rape. R.C. 2950.01(A) defines each of the six offenses as a "sexually oriented offense." Pursuant to R.C. 2950.01(G)(1)(a) and (h), conviction of those sexually oriented offenses subjects the offender to classification as a "Tier III sex offender," a classification

that occurs by operation of law "based solely on the offense of which he or she was convicted and the number of convictions." *Miller v. Cordray*, 184 Ohio App.3d 754, 2009-Ohio-3617, ¶10 (noting that following the Adam Walsh Act, implemented by S.B. No. 10, "[t]rial courts no longer have discretion in imposing a certain classification on an offender").

{¶12} At sentencing, the trial court must provide a sex offender sentenced after January 1, 2008 with notice he or she is required to register with the county sheriff pursuant to R.C. 2950.04. See R.C. 2950.03(A)(2). R.C. 2950.07(B)(1) provides the registration requirement for Tier III offenders extends for life, while R.C. 2950.06(B)(3) requires verification every 90 days. *State v. Crawford*, 10th Dist. No. 08AP-1055, 2009-Ohio-4649, ¶15. Although a trial court notifies a Tier III offender at sentencing he is required to comply with the statutory registration requirements, the trial court is "not required to hold a separate hearing to inform [defendant] of his classification as a Tier III sex offender because the classification arose from his conviction." Id. at ¶17, citing *State v. Chambers*, 151 Ohio App.3d 243, 2002-Ohio-7345, ¶14, citing *State v. Hayden*, 96 Ohio St.3d 211, 2002-Ohio-4169, ¶15. Because defendant was not entitled to a separate hearing to determine his classification as a Tier III sex offender, his trial counsel's failure to request such a hearing is not ineffective assistance of counsel.

{¶13} Defendant also argues his trial counsel was deficient in failing to request a separate hearing under R.C. 2950.11(F)(2) to relieve him of community notification requirements following completion of his sentence. Because defendant is a Tier III sexual offender, the community notification provisions of R.C. 2950.11(A) apply unless the exception in R.C. 2950.11(F)(2) applies. See *State v. McConville*, 124 Ohio St.3d 556,

2010-Ohio-958, ¶4. In order for an offender to be exempt from community notification, the trial court must find certain facts at a hearing pursuant to R.C. 2950.11(F)(2). Id. at ¶10.

{¶14} Even if defense counsel erred in failing to request a hearing pursuant to R.C. 2950.11(F)(2), defendant fails to demonstrate prejudice. See, e.g., *In re Kristopher W.*, 5th Dist. No. 2008 AP 03 0022, 2008-Ohio-6075, ¶38 (finding that even if defendant's counsel was ineffective in failing to advise the trial court of the factors contained in R.C. 2950.11(F)(2) necessary to impose community notification, defendant cannot establish he was prejudiced). Indeed, defendant concedes "it is difficult to determine whether or not the outcome would have been different" had defendant received a hearing under R.C. 2950.11(F)(2). (Defendant's brief, 4.) The state argues no reasonable lawyer would have sought a hearing under R.C. 2950.11(F)(2) to relieve defendant of community notification requirements given the nature of defendant's offenses and the duration of his sentence. Because defendant does not demonstrate a reasonable probability the court would not have imposed the community notification requirements had his counsel requested the hearing under R.C. 2950.11(F)(2), defendant likewise failed to demonstrate he received ineffective assistance of counsel.

{¶15} Defendant's first assignment of error is overruled.

IV. Second Assignment of Error – Residency Verification

{¶16} In his second assignment of error, defendant asserts the trial court erred in providing defendant with conflicting information regarding his duty to verify his residence with the county sheriff.

{¶17} "[P]ursuant to R.C. 2929.19(B)(4)(a)(ii), a trial court is required to include in the offender's sentence a statement that the offender is a Tier III sex offender." *Crawford* at ¶15. Additionally, a trial court must comply with R.C. 2950.03, which requires a judge "at sentencing to provide a sex offender sentenced after January 1, 2008, with notice that he is to register with the sheriff pursuant to R.C. 2950.04." Id., citing R.C. 2950.03(A)(2); see also R.C. 2950.07(B)(1) (specifying the registration requirement for a Tier III sex offender is for life) and R.C. 2950.06(B)(3) (requiring verification every 90 days for a Tier III sex offender).

{¶18} Defendant contends the trial court erred when, at the sentencing hearing, it informed defendant he needed to "periodically" notify the sheriff of his residency but stated in the written judgment entry that defendant is subject to in-person verification every 90 days. (Oct. 26, 2009 Tr. 8; Judgment Entry, 1.) Defendant asserts the trial court informed him he needed to verify his residency every 90 days if he were to change his address.

{¶19} Defendant's argument takes the trial court's statements out of context and lacks merit. Although the trial court initially used the word "periodically" to describe defendant's verification requirements, it subsequently stated "you will be required to fulfill these requirements for a life time with - - in person verification every 90 days." (Oct. 26, 2009 Tr. 9.) The trial court's instructions regarding change of address were in addition to the overall requirement to verify in person every 90 days. The trial court further properly completed the form described in R.C. Chapter 2950 explaining defendant's duties as a Tier III sex offender, a form defendant refused to sign. (R. 53, 57.)

{¶20} As the judgment entry accurately reflects what transpired at the sentencing hearing, and the trial court complied with the requirements of R.C. 2950.03(A)(2), the trial court did not err in informing defendant of the verification requirements.

{¶21} Defendant's second assignment of error is overruled.

V. Third Assignment of Error – Motion to Withdraw Plea

{¶22} Defendant's third assignment of error asserts the trial court erred when it denied defendant's motion to withdraw his guilty plea.

{¶23} A defendant may seek to withdraw his plea pursuant to Crim.R. 32.1, which provides that "[a] motion to withdraw a plea of guilty or no contest may be made only before sentence is imposed; but to correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his or her plea." Although the term "manifest injustice" has been variously defined, "it is clear that under such standard, a postsentence withdrawal motion is allowable only in extraordinary cases." *State v. Smith* (1977), 49 Ohio St.2d 261, 264, citing *United States v. Semel* (C.A.4, 1965), 347 F.2d 228, cert. denied, 382 U.S. 840, 86 S.Ct. 90. "A manifest injustice comprehends a fundamental flaw in the path of justice so extraordinary that the defendant could not have sought redress from the resulting prejudice through any form of application reasonably available to him." *State v. Shupp*, 2d Dist. No. 06CA62, 2007-Ohio-4896, ¶6.

{¶24} "A Crim.R. 32.1 motion is addressed to the sound discretion of the trial court. * * * Consequently, our review is limited to a determination of whether the trial court abused its discretion." *State v. Marable*, 10th Dist. No. 03AP-97, 2003-Ohio-6653, ¶9 (citations omitted); see also *State v. Boyd* (Oct. 22, 1998), 10th Dist. No. 97APA12-1640,

appeal not allowed (1999), 85 Ohio St.3d 1424 (listing factors the trial court properly may consider in exercising its discretion).

{¶25} Defendant contends that because he made his motion to withdraw his plea before sentencing, the trial court erred when it denied the motion. Defendant ignores the discretion afforded to trial courts in deciding whether to grant a pre-sentence motion to withdraw. To determine whether a trial court abused its discretion in denying a pre-sentence motion to withdraw a guilty plea, we look to a number of non-exhaustive factors, including: (1) potential prejudice to the prosecution if the trial court vacated the plea; (2) whether highly competent counsel represented the offender; (3) the extent of the Crim.R. 11 hearing before the offender entered his plea; (4) whether the offender received a full hearing on his motion to withdraw plea; (5) whether the trial court fully and fairly considered the motion to withdraw; (6) whether the offender made the motion within a reasonable time; (7) whether the motion set forth specific reasons for the withdrawal; (8) whether the offender understood the nature of the charges and possible penalties; and (9) whether the offender may not have been guilty or had a complete defense to the crime. *State v. Jones*, 10th Dist. No. 09AP-700, 2010-Ohio-903, ¶10, citing *State v. Fish* (1995), 104 Ohio App.3d 236.

{¶26} Here, initially, evidence indicates the state would have been prejudiced had the trial court permitted defendant to withdraw his guilty plea. Pursuant to the joint agreement, the federal court already had sentenced defendant and the state had surrendered primary custody of defendant to the U.S. Marshal. Defendant was a prisoner of the federal Bureau of Prisons, subject to transfer and custody out of state, with return only upon a writ of habeas corpus ad prosequendum at, the state argues, substantial cost

to the state. See *Smith v. Hooey* (1969), 393 U.S. 374, 381, 89 S.Ct. 575, 579, n.13. Thus, some evidence of prejudice to the state, beyond the ordinary impact of any defendant's subsequent withdrawal of a guilty plea, is in the record.

{¶27} Secondly, defendant received competent representation from his trial counsel. The only instance in which defendant claims ineffective assistance of counsel is set forth in defendant's first assignment of error. In resolving that assigned error, we reviewed the assistance defense counsel rendered to defendant and concluded defendant received effective assistance of counsel.

{¶28} Thirdly, the trial court conducted a thorough plea hearing pursuant to Civ.R. 11 on July 13, 2009. The trial court addressed defendant personally and ensured defendant understood the nature of the charges against him as well as the rights defendant would surrender should he enter a guilty plea. Indeed, defendant does not point to any deficiencies in the Crim.R. 11 hearing.

{¶29} The fourth and fifth considerations require that we examine whether the trial court conducted a hearing on defendant's motion to withdraw his plea and whether the trial court gave full and fair consideration to that motion. Here, following the handwritten letters defendant sent to the court, the trial court convened a hearing on September 16, 2009 to address defendant's reservations about the plea agreement. At the hearing, defendant's attorney not only explained that he discussed the matter with defendant but he advised the court defendant decided to go forward with the plea. Defendant confirmed counsel's representation on the record. When defendant nonetheless expressed some reservation about the plea, the trial court directly asked defendant, "[A]re you trying to

withdraw your plea? That's a yes-or-no question." (Sept. 16, 2009 Tr. 4.) Defendant responded, "No, then." (Sept. 16, 2009 Tr. 5.)

{¶30} Despite the hearing the trial court afforded defendant, defendant orally moved to withdraw his plea at the subsequent sentencing hearing. After the statements from the victims, the trial court referenced the September 16, 2009 hearing when it stated, "Well, Mr. Harris, as to whether you can withdraw this plea, I believe we have been through this in court before and talked about whether or not you can withdraw your plea is within my discretion. So I will not allow you to do that." (Oct. 26, 2009 Tr. 5.) Having already conducted a full hearing on defendant's motion to withdraw his plea, the trial court did not abuse its discretion in refusing to conduct another hearing and reconsider whether defendant should be permitted to withdraw his plea.

{¶31} Under the sixth consideration, defendant's motion was not made within a reasonable time. Although he first requested to withdraw his plea one week after entering it, defendant retracted that request at the September 16, 2009 hearing. Defendant's second request, made during the middle of his sentencing hearing and after listening to the statements from the victims, was not made at a reasonable time in view of the prior request.

{¶32} As to the seventh consideration, defendant's verbal request to "take back that plea and * * * go for an ineffective counsel" did not set forth specific reasons to justify withdrawing his plea. (Oct. 26, 2009 Tr. 5.) The trial court gave the defendant an opportunity to speak on his behalf, but defendant declined. To the extent defendant was asserting defense counsel was ineffective, we have addressed that complaint and

determined it lacked merit. Defendant posited no other reasons to support his last-minute request to withdraw his plea.

{¶33} The eighth consideration requires that we examine whether defendant understood the nature of the charges pending against him and the possible penalties. At the initial plea hearing on July 13, 2009, defendant on the record stated he understood the charges and penalties both from what the court explained on the record and what his attorney privately conveyed to him. He further acknowledged he understood his plea with the state was interrelated with his federal court plea. Indeed, defendant does not allege on appeal that he did not understand the nature of the charges or the sentence he would face as a result of his plea.

{¶34} Lastly, defendant did not claim in the trial court that he had known defenses to the charges he would raise if he were permitted to withdraw his guilty plea. Neither does defendant set forth on appeal any defenses he would have asserted at trial. Thus, the trial court did not abuse its discretion in denying defendant's motion to withdraw his guilty plea.

{¶35} Defendant's third assignment of error is overruled.

VI. Fourth Assignment of Error – Consecutive Sentences

{¶36} Defendant's fourth assignment of error asserts the trial court violated R.C. 2929.14 by ordering defendant's state sentence be served consecutively to his federal sentence. While defendant concedes the trial court may impose a sentence consecutive to a previously imposed federal sentence, defendant alleges the trial court here did not do so in conformity with the statute. Specifically, defendant alleges the trial court stated only its desire to "protect the public from people that may need protection from," rather than

specifically indicating its desire to protect the public from future crimes under R.C. 2929.14(E)(4). (Oct. 26, 2009 Tr. 7.)

{¶37} The trial court here imposed the sentence contained in the joint recommendation to which defendant agreed. Pursuant to R.C. 2953.08(D), "[a] sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge." As a result, because defendant agreed to the consecutive sentences in the joint recommendation, the trial court did not err in imposing the consecutive sentences. See *State v. Dennison*, 10th Dist. No. 05AP-124, 2005-Ohio-5837, ¶12.

{¶38} Accordingly, we overrule defendant's fourth assignment of error.

VII. Fifth Assignment of Error – Discharge of Counsel

{¶39} In his fifth and final assignment of error, defendant asserts the trial court erred when it denied his request to "fire" his court-appointed attorney on the day of sentencing.

{¶40} The right of an accused to select his or her own counsel is inherent only in cases where the accused employs counsel; the court has no duty in assigning counsel for an indigent defendant to allow the defendant to choose his or her attorney. *Thurston v. Maxwell* (1965), 3 Ohio St.2d 92, 93; *State v. Gordon*, 149 Ohio App.3d 237, 2002-Ohio-2761. Rather, an indigent defendant is entitled to competent, effective representation from an appointed attorney. Id. at ¶11. "Competent representation does not include the right to develop and share a 'meaningful attorney-client relationship' with one's attorney." Id. at ¶12, citing *Morris v. Slappy* (1983), 461 U.S. 1, 103 S.Ct. 1610.

{¶41} "To discharge a court-appointed attorney, the defendant must show 'a breakdown in the attorney-client relationship of such magnitude as to jeopardize the defendant's right to effective assistance of counsel.' " *State v. Coleman* (1988), 37 Ohio St.3d 286, 292, quoting *People v. Robles* (1970), 2 Cal.3d 205, 215. Simple "[d]isagreement between the attorney and client over trial tactics and strategy does not warrant a substitution of counsel." *State v. Furlow*, 2d Dist. No. 03CA0058, 2004-Ohio-5279, ¶12. (Citations omitted.) Similarly, "mere hostility, tension and personal conflicts between attorney and client do not constitute a total breakdown in communication if those problems do not interfere with the preparation and presentation of a defense." Id. Rather, a defendant is required to show "good cause, such as a conflict of interest, a complete breakdown of communication, or an irreconcilable conflict which leads to an apparently unjust result." *State v. Smith* (Dec. 29, 1998), 4th Dist. No. 98CA12, quoting *State v. Blankenship* (1995), 102 Ohio App.3d 534, 558.

{¶42} Defendant bears the burden of demonstrating grounds for the appointment of new counsel. If a "defendant alleges facts which, if true, would require relief, the trial court must inquire into the defendant's complaint and make the inquiry part of the record." *Smith*, citing *State v. Deal* (1969), 17 Ohio St.2d 17, 20. Although the inquiry may be brief and minimal, the inquiry must be made. *State v. King* (1995), 104 Ohio App.3d 434, 437; *Smith*. "Even that limited judicial duty arises only if the allegations are sufficiently specific; vague or general objections do not trigger the duty to investigate further." *Smith*, citing *Deal*, supra; see also *State v. Johnson*, 112 Ohio St.3d 210, 2006-Ohio-6404, ¶68, quoting *State v. Carter* (1998), 128 Ohio App.3d 419, 423.

{¶43} Once a defendant makes the requisite showing, the trial court's failure to appoint new counsel "amounts to a denial of effective assistance of counsel." *Smith*, quoting *State v. Pruitt* (1984), 18 Ohio App.3d 50, 57. "The decision whether or not to remove court appointed counsel and allow substitution of new counsel is addressed to the sound discretion of the trial court, and its decision will not be reversed on appeal absent an abuse of discretion." *Furlow* at ¶13.

{¶44} Defendant here did not meet the requirements to warrant discharge of court-appointed counsel. To the contrary, defendant did not even allege facts sufficient to trigger the court's duty to inquire, as defendant did not assert any specific facts indicating a specific breakdown in the attorney-client relationship. See *State v. Erwin*, 10th Dist. No. 09AP-918, 2010-Ohio-3022, ¶10, citing *State v. Hibbler*, 2d Dist. No. 2001-CA-43, 2002-Ohio-4464, ¶15, citing *State v. Harris* (Nov. 27, 1992), 6th Dist. No. L-92-039 (stating "[t]he duty to inquire described in *State v. Deal* is not a duty to inquire into the grounds of the motion," as "[t]he accused bears the duty of announcing the grounds of the motion"). Defendant's last-minute request, in the middle of his sentencing hearing, to "fire" his attorney, when unaccompanied by any specific reasons for so doing, is too general to require further inquiry from the trial court, much less grant defendant's request to discharge his counsel. *Erwin* at ¶11, citing *State v. Badran*, 8th Dist. No. 90725, 2008-Ohio-6649, ¶11 (stating "[w]e have found that 'the refusal to replace an appointed attorney is not an abuse of discretion when the request is made at the last minute prior to trial and adequate reasons for the request are not set out in the record' "), citing *State v. Smith* (Sept. 14, 2000), 8th Dist. No. 76998, quoting *State v. Harper* (1988), 47 Ohio App.3d 109, 113.

{¶45} As the trial court did not err in not allowing defendant to discharge his court-appointed counsel, we overrule defendant's fifth and final assignment of error.

VIII. Disposition

{¶46} In sum, not only did defendant receive effective assistance of counsel, but the trial court did not err in informing defendant of the requirements of his status as a Tier III sexual offender, denying defendant's motion to withdraw his guilty plea, imposing a sentence consecutive to defendant's federal sentence, and denying defendant's request to discharge his court-appointed counsel. Having overruled defendant's five assignments of error, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

KLATT and McGRATH, JJ., concur.

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