

[Cite as *State v. Webb*, 2010-Ohio-2643.]

IN THE COURT OF APPEALS OF CHAMPAIGN COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellee	:	C.A. CASE NO. 09CA25
vs.	:	T.C. CASE NO. 08CR274
SEAN COREY WEBB	:	(Criminal Appeal from Common Pleas Court)
Defendant-Appellant	:	

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O P I N I O N

Rendered on the 11th day of June, 2010.

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Attorney for Plaintiff-Appellee

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GRADY, J.:

{¶ 1} Defendant, Sean Webb, was convicted on his negotiated pleas of guilty of three counts of trafficking in heroin, one count of having weapons while under a disability, and three counts of forgery. The trial court sentenced Defendant to prison terms that together total six years.

{¶ 2} Defendant filed a notice of appeal. His appellate counsel filed a brief pursuant to *Anders v. California* (1967), 386 U.S. 378, 87 S.Ct. 1396, 19 L.Ed.2d 493, stating that she could find no meritorious issues for appellate review, but identifying one potential assignment of error.

{¶ 3} We notified Defendant of his appellate counsel's representations and afforded him ample time in which to file a brief pro se. None has been received. The matter is now before us for review of the potential error counsel assigns, and our own independent review. *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346, 102 L.Ed.2d 300.

ASSIGNMENT OF ERROR

{¶ 4} "THE TRIAL COURT ERRED IN NOT FINDING A CONFLICT OF INTEREST."

{¶ 5} In a written journal entry it filed on February 6, 2009 (Dkt. 24), discussing matters that a final pretrial conference of January 29, 2009 involved, the trial court made the following statement:

{¶ 6} "Counsel for Defendant advised the Court that Defendant has asked Counsel to withdraw as counsel because of a conflict of interest concern. After consideration of all information the Court denied the request."

{¶ 7} Defendant contends that the conflict of interest to which

the court referred involved a dual representation. He states that his appointed counsel, Jerry McHenry, an assistant Ohio Public Defender, represented both Defendant and David Layne, who became a State's witness in the case. Defendant argues that the resulting conflict of interest is "per se," and that the trial court therefore erred when it denied the motion by Defendant to which its entry of February 6, 2009 referred.

{¶ 8} We are required to accord a presumption of regularity and correctness to proceedings in the trial courts, absent any basis in the record to find that an error occurred. *Hartt v. Munobe*, 67 Ohio St.3d 3, 1993-Ohio-177

{¶ 9} The trial court's summary of docket and journal entries contains no form of written motion that exemplifies the basis for disqualification or leave to withdraw which the court in its February 6, 2009 journal entry denied. Neither have we been provided a transcript of the pretrial conference of January 29, 2009, or a proceeding on any other date, in which the motion was made. Lacking any basis to find that the alleged dual representation took place, the record does not support a finding that the trial court erred when it denied Defendant's request that the court permit his counsel to withdraw.

{¶ 10} In addition to reviewing the possible issue for appeal raised by Defendant's appellate counsel, we have conducted an

independent review of the trial court's proceedings and have found no error having arguable merit. Accordingly, Defendant's appeal is without merit and the judgment of the trial court will be affirmed.

DONOVAN, P.J., And BROGAN, J., concur.

Copies mailed to:

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Hon. Roger B. Wilson
Sean Corey Webb