

[Cite as *State v. Doty*, 2010-Ohio-4648.]

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. Julie A. Edwards, P.J.
Plaintiff-Appellee	:	Hon. W. Scott Gwin, J.
	:	Hon. Sheila G. Farmer, J.
-vs-	:	
	:	
BETH A. DOTY	:	Case No. 2010CA00022
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Appeal from the Court of Common Pleas,
Case No. 2009CR00444

JUDGMENT: Affirmed

DATE OF JUDGMENT ENTRY: September 28, 2010

APPEARANCES:

For Plaintiff-Appellee

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For Defendant-Appellant

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Farmer, J.

{¶1} On September 4, 2009, the Licking County Grand Jury indicted appellant, Beth Doty, on one count of aggravated murder in violation of R.C. 2903.01, one count of murder in violation of R.C. 2903.02, and one count of aggravated burglary in violation of R.C. 2911.11. Said charges arose from the stabbing death of John Stouffer.

{¶2} On October 19, 2009, appellant filed a motion regarding her competency to stand trial. A hearing was held on January 4, 2010. The trial court accepted reports indicating appellant was competent and deemed appellant competent to stand trial.

{¶3} On February 3, 2010, appellant pled guilty to the aggravated murder and aggravated burglary counts. By judgment entry filed same date, the trial court sentenced appellant to twenty years to life in prison.

{¶4} Appellant filed an appeal and this matter is now before this court for consideration. Assignments of error are as follows:

I

{¶5} "APPELLANT RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL."

II

{¶6} "WAS APPELLANT'S INDICTMENT LEGALLY SUFFICIENT TO PROVE GUILT."

I

{¶7} Appellant claims she was denied the effective assistance of trial counsel because her counsel failed to attend her competency hearing. We disagree.

{¶8} The standard this issue must be measured against is set out in *State v. Bradley* (1989), 42 Ohio St.3d 136, paragraphs two and three of the syllabus, certiorari denied (1990), 497 U.S. 1011. Appellant must establish the following:

{¶9} "2. Counsel's performance will not be deemed ineffective unless and until counsel's performance is proved to have fallen below an objective standard of reasonable representation and, in addition, prejudice arises from counsel's performance. (*State v. Lytle* [1976], 48 Ohio St.2d 391, 2 O.O.3d 495, 358 N.E.2d 623; *Strickland v. Washington* [1984], 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674, followed.)

{¶10} "3. To show that a defendant has been prejudiced by counsel's deficient performance, the defendant must prove that there exists a reasonable probability that, were it not for counsel's errors, the result of the trial would have been different."

{¶11} Included in the record is the transcript of the competency hearing held on January 4, 2010. It notes that Paul Morrison, Esq., appeared "on behalf of defendant." The trial court noted, "[t]he record should reflect that the Defendant is present here in open court represented by counsel, Mr. Morrison." T. at 3.

{¶12} At the start of the hearing, Mr. Morrison did not object to the trial court receiving the reports deeming appellant competent. T. at 4. He did not have anything to add to the issue, "not on behalf of Crysta Pennington or myself." *Id.* Crysta Pennington was appellant's appointed counsel. Mr. Morrison affirmed that Ms. Pennington had received the reports. T. at 3. We noted Mr. Morrison and Ms. Pennington share the same office address as noted in the January 4, and February 3, 2010 transcripts.

{¶13} We fail to find any deficiency in having a substitute attorney appear, and we do not find any error that would have impacted the outcome of the proceedings.

{¶14} Assignment of Error I is denied.

II

{¶15} Appellant claims the indictment was legally insufficient to establish guilt. We disagree.

{¶16} Appellant pled guilty on February 3, 2010 and never raised any issue as to the sufficiency of the indictment.

{¶17} Appellant pled guilty to Counts 1 and 3 of the indictment [aggravated murder in violation of R.C. 2903.01(A) and aggravated burglary in violation of R.C. 2911.11(A)(1)]. The prosecutor read the following facts into the record:

{¶18} "On each of these counts, Your Honor, the Defendant's liability is by way of being an accomplice to one or more of the co-defendants noted above previously.

{¶19} "The facts, Your Honor, are as follows: Specifically on August 24, 2009 at approximately 2212 hours, the Newark Police Department officers responded to 59 West Harrison Street, Newark, Licking County, Ohio, on a report of screams coming from a room; the structure being a rooming house. Upon further investigation officers found 25-year old John Stouffer lying dead on the floor of this room. It was apparent that Mr. Stouffer had suffered multiple stab wounds from a sharp-edged instrument.

{¶20} "Detectives were called in to investigate the homicide. Further investigation revealed that the Defendant, along with her co-defendants, arrived at Stouffer's neighbor's apartment under the pretenses of removing some of the Defendant's personal items from that apartment. This apartment was occupied by

Marvin Wielms whom the Defendant was dating at the time. This apartment was then used as a staging area for the killing of Stouffer.

{¶21} "Once there, co-defendant William Snyder convinced the victim, John Stouffer, to answer his door under the pretense of wanting to discuss his pickup truck. After the victim opened his door, co-defendant Jason Stone rushed through the entryway and proceeded to physically attack the victim with a knife. A total of 29 stab wounds were inflicted by Stone, including 20 stab wounds to the torso, seven stab wounds to the head and neck and two stab wounds to the extremities. As a result of these stab wounds, John Stouffer died at the scene.

{¶22} "The Defendant was previously involved romantically with the victim and believed that she was pregnant with his child at the time of the homicide.

{¶23} "Prior to his killing the Defendant had solicited her co-defendants and members of the 'Death Demons' club to take care of the victim Stouffer in order to prevent him from having access to the child because she was concerned about having a child removed from her and because she did not want the child's father as a sex offender.

{¶24} "When confronted with the foregoing, Your Honor, by detectives of the Newark Police Department, the Defendant originally lied about her knowledge of the homicide, lied about her relationship with the victim, his status as the father of the child and her role in the murder of John Stouffer." T. at 11-13.

{¶25} During the colloquy between appellant and the trial court, appellant informed the judge that she was there:

{¶26} "Q. Are you changing your pleas to guilty because you are, in fact, guilty?"

{¶27} "A. Because I was there, yes, Your Honor." T. at 18.

{¶28} By pleading guilty, appellant admitted to the crimes charged. Appellant failed to attack the sufficiency of the indictment vis-à-vis the facts as stated in the record.

{¶29} In *State v. Korotkov*, Delaware App. No. 09 CAA 08 0073, 2010-Ohio-3097, this court stated the following at ¶35:

{¶30} " ***The entry of a plea of guilty is a grave decision by an accused to dispense with a trial and allow the state to obtain a conviction without following the otherwise difficult process of proving his guilt beyond a reasonable doubt. See *Machibroda v. United States* (1962), 368 U.S. 487, 82 S.Ct. 510, 7 L.Ed.2d 473. A plea of guilty constitutes a complete admission of guilt. Crim. R. 11(B)(1). "By entering a plea of guilty, the accused is not simply stating that he did the discreet acts described in the indictment; he is admitting guilt of a substantive crime." *United v. Broce* (1989), 488 U.S. 563, 570, 109 S.Ct. 757, 762. ***"

{¶31} Upon review, we find the trial court did not err in accepting the guilty pleas.

{¶32} Assignment of Error II is denied.

{¶33} The judgment of the Court of Common Pleas of Licking County, Ohio is hereby affirmed.

By Farmer, J.

Edwards, P.J. and

Gwin, J. concur.

s/ Sheila G. Farmer

s/ Julie A. Edwards

s/ W. Scott Gwin

JUDGES

SGF/sg 826

