

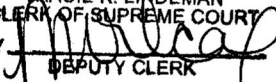
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TADZIU CLIFFORD EWING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63818

FILED

JAN 21 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of felony driving under the influence of intoxicating liquor or controlled or prohibited substance. Tenth Judicial District Court, Churchill County; Robert E. Estes, Judge.

Appellant Tadziu Clifford Ewing claims that the district court abused its discretion by reappointing Paul Drakulich as his attorney because he had previously complained about Drakulich's representation, he protested the reappointment, and the district court did not adequately inquire into the matter. We review a district court's decisions regarding the substitution of court-appointed counsel for abuse of discretion. *Young v. State*, 120 Nev. 963, 968, 102 P.3d 572, 576 (2004). In conducting our review, we consider the extent of any conflict, the adequacy of the district court's inquiry, and the timeliness of defendant's motion. *Id.* at 968-69, 102 P.3d at 576.

The record reveals that on February 14, 2012, Drakulich informed District Judge Richard Wagner that his relationship with Ewing was difficult. The judge inquired into the matter and learned Ewing felt that Drakulich was slow in providing discovery and had not sufficiently


communicated with him regarding the trial preparations. Drakulich stated that he would visit Ewing the following day and make sufficient time to fully discuss the case. The judge ruled that the matter did not warrant appointment of new counsel, but calendared a status hearing 30 days out so that he could determine whether things had improved. Ewing agreed with the remedy and did not complain about Drakulich in Judge Wagner's court again.


Nearly a year later, David Neidert was appointed to represent Ewing because Drakulich was on medical leave. On February 5, 2013, Neidert informed District Judge Robert Estes that there had been a breakdown in his relationship with Ewing and he could no longer adequately represent Ewing's interests at trial. The judge inquired into the matter and learned that Ewing felt that there was a lack of communication, Neidert only brought him plea negotiations and never conveyed any sort of legal defense, and Neidert screamed at him. When the judge relieved Neidert and reappointed Drakulich, Ewing protested that he had the same lack of communication with Drakulich. The judge told Ewing that he was not paying for his attorneys and does not get to pick them, and that he must deal with the communication problem. Ewing did not complain about Drakulich in Judge Estes' court again, and he was tried in that court on April 24, 2013.


This record does not evince a collapse of the attorney-client relationship or even demonstrate that Ewing requested a new attorney after Drakulich was reappointed. Accordingly, we conclude that the district court did not abuse its discretion by substituting Neidert with Drakulich.

Ewing further claims that this court should entertain an ineffective-assistance-of-counsel claim. However, we will not “consider ineffective-assistance-of-counsel claims on direct appeal unless the district court has held an evidentiary hearing on the matter or an evidentiary hearing would be needless.” *Archanian v. State*, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006). As Ewing has not demonstrated that either of these exceptions applies, we decline to consider his claim on direct appeal.

Having concluded that appellant is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Chief Judge, Tenth Judicial District
Hon. Robert E. Estes, Senior Judge
Law Offices of John E. Oakes
Churchill County District Attorney/Fallon
Attorney General/Carson City
Churchill County Clerk

¹Ewing attempts bolster his claims by referencing Drakulich’s failure to pursue the direct appeal in a competent and professional manner and the ensuing sanctions imposed by the Nevada Supreme Court. Because these events took place after the district court’s decisions regarding the substitution of court-appointed counsel, they are irrelevant to our decision and were not considered.