

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-110617
	:	TRIAL NO. B-1000262
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
JOHN BRADLEY,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op.2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant John Bradley entered guilty pleas to possession of heroin, possession of cocaine, and having weapons while under a disability. The trial court imposed an agreed sentence of four years in prison. Bradley now appeals.

In his first assignment of error, Bradley argues that the court erred by refusing to allow defense counsel to withdraw from representing him. On the morning of trial, Bradley claimed that he had retained a different attorney who was not present, had not communicated with the court, and would not be available for up to two months following a surgery. The court found the timing of Bradley’s request for a continuance suspicious because it was made at the “12th hour,” 18 months after his arrest, and after numerous continuances had been granted. Moreover, the record reveals that when Bradley entered his guilty pleas later the same day, he indicated that he was satisfied with defense counsel’s representation. Under these circumstances, we find no abuse of discretion by the trial court in denying Bradley’s request for a continuance. *See Morris v. Slappy*, 461 U.S. 1, 11-12, 103 S.Ct. 1610, 75

L.Ed.2d 610 (1983); *Thurston v. Maxwell*, 3 Ohio St.2d 92, 209 N.E.2d 204 (1965). We overrule the first assignment of error.

In his second assignment of error, Bradley argues that the court's imposition of an agreed four-year sentence was "vindictive" because the court had been "clearly annoyed" by his efforts to enforce his right to counsel of his choice and to have a hearing on his motion to suppress. The record does not support Bradley's contentions. Moreover, he cannot appeal his sentence because (1) he and the state agreed to the sentence, (2) the court imposed the agreed sentence, and (3) the sentence is authorized by law. *See* R.C. 2953.08(D)(1); *State v. Underwood*, 124 Ohio St.3d 365, 2010-Ohio-1, 922 N.E.2d 923, ¶ 16. We overrule the second assignment of error.

In his third assignment of error, Bradley argues that the trial court erred by accepting his involuntary and uncounseled guilty pleas. He contends that the court had actively participated in plea negotiations and had refused to allow him to have counsel of his choice. The record demonstrates that the court did not participate in negotiations; it simply asked about their status. Moreover, we have already held that the court did not abuse its discretion in denying Bradley's request for a continuance for new counsel. The court engaged Bradley in a complete Crim.R. 11 colloquy, Bradley indicated that he understood the consequences of his pleas, and he indicated that he was satisfied with defense counsel's representation. Because Bradley has failed to demonstrate that his pleas were not knowingly, intelligently, or voluntarily made, we overrule the third assignment of error.

In his fourth assignment of error, Bradley argues that the trial court erred by denying his motion to suppress. However, by entering his guilty pleas, Bradley waived his right to challenge the court's ruling on appeal. *See State v. Ketterer*, 111 Ohio St.3d 70, 2006-Ohio-5283, 855 N.E.2d 48, ¶ 116.

In his fifth assignment of error, Bradley argues that he was deprived of the effective assistance of counsel. He complains that counsel failed to present evidence at the suppression hearing and allowed continuance requests to be attributed to him. However, Bradley's guilty pleas waived any complaint as to claims of constitutional violations not related to the entry of the guilty pleas. *Id.* at ¶ 104. Bradley's contention that counsel pressured him into a plea deal is not demonstrated in the record. He indicated to the court that he was entering the pleas of his own free will and that no promises or threats had been made.

Finally, Bradley complains that counsel allowed him to plead guilty rather than no contest, thereby preventing him from appealing the ruling on his suppression motion. But he has failed to demonstrate that counsel's performance with respect to the guilty pleas was deficient. *See Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1968); *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985); *State v. Xie*, 62 Ohio St.3d 521, 584 N.E.2d 715 (1992). In exchange for Bradley's guilty pleas, the state agreed to dismiss four other felony counts and to recommend a four-year sentence, thereby significantly reducing his potential imprisonment. Moreover, nothing in the record supports Bradley's assumption that the state would have agreed to the reductions in exchange for no-contest pleas rather than guilty pleas. We overrule the fifth assignment of error and affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27.

SUNDERMANN, P.J., HENDON and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on August 17, 2012

per order of the court _____.
Presiding Judge