

IN THE COURT OF APPEALS OF IOWA

No. 1-578 / 10-1896
Filed August 24, 2011

STATE OF IOWA,
Plaintiff-Appellee,

vs.

MICHELLE LYNN WILLIAMS,
Defendant-Appellant.

Appeal from the Iowa District Court for Boone County Steven J. Oeth,
Judge.

Defendant appeals her conviction and sentence for driving while revoked.

AFFIRMED.

Mark C. Smith, State Appellate Defender, and David Arthur Adams,
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney
General, Jim Robbins, County Attorney, and Daniel J. Gonnerman, Assistant
County Attorney, for appellee.

Considered by Eisenhauer, P.J., and Doyle and Mullins, JJ.

EISENHAUER, P.J.

Michelle Lynn Williams contends the trial court failed to protect her Sixth Amendment right to counsel by not inquiring into the breakdown of communication between her and her attorney. Charged by trial information with driving while revoked, Williams filed a motion to suppress evidence claiming the police officer had no probable cause to make the traffic stop which led to the charge. When the motion to suppress came on for hearing in July 2010, the judge asked defense counsel why she had not spoken to Williams. An exchange then occurred between defense counsel and the judge:

[THE COURT]: Tell me why you haven't talked to your client when this has been set [since] April 27, Ms. Patton? This is getting to be a routine practice that I am not happy with. You tell me why you haven't talked to your client until today, when this was scheduled since April 27?

[DEFENSE COUNSEL]: I last talked with her at the pretrial conference, and she hasn't contacted me since.

[DEFENDANT WILLIAMS]: You said you would send me the papers. We were supposed to talk before the hearing. Last time we were supposed to talk too. I got to see her for 5 minutes.

After the court asked defense counsel about the nature of the motion, defense counsel revealed she did not have her file with her. The following then transpired:

[DEFENSE COUNSEL]: I left my file in the office.

[THE COURT]: This was set for 1:30, right?

[DEFENSE COUNSEL]: Yes.

[THE COURT]: And would you agree that this is happening all the time, that you are not ready to go at the time that the hearing is scheduled? Ms. Patton, do you agree that is a frequent problem that I am having with you?

[DEFENSE COUNSEL]: That has happened a few times.

After the court gave defense counsel time to retrieve her file and after Williams and her attorney had an opportunity to talk, the hearing proceeded.

Williams testified and was cross-examined by the county attorney:

Q. So you admit that you were driving illegally at the time; is that correct? A. Yes. Yeah, I don't know if I am supposed to plead the 5th on something like that. I didn't talk to nobody.

After the county attorney's questioning ended, it appeared Williams wanted to say something more, and the court allowed her to talk with her attorney. No further questions were asked.

The court denied the motion to suppress. The October 2010 trial was before the same judge. The evidence was submitted pursuant to a stipulation to proceed solely on the minutes of testimony attached to the trial information. Williams agreed to the stipulation upon inquiry by the court and was found guilty of driving while revoked. She was later given a suspended sentence of fifteen days in jail, fined \$1000, ordered to pay costs and attorney fees, and placed on self-supervised probation for one year.

This case involves a constitutional challenge, and such cases are reviewed de novo. *State v. Stephenson*, 608 N.W.2d 778, 782 (Iowa 2000). We independently evaluate the defendant's claim under the totality of the circumstances as shown by the entire record. *State v. Tague*, 676 N.W.2d 197, 201 (Iowa 2004).

Williams claims the court had a duty under *State v. Tejeda*, 677 N.W.2d 744, 751-52 (Iowa 2004), to ask her if there has been a "complete breakdown in communication between the attorney and the defendant" to the extent her Sixth Amendment right to counsel was violated. *Tejeda*, 677 N.W.2d at 751 (ruling

court has a duty of inquiry once a defendant requests substitute counsel on account of an alleged breakdown in communication).

After our de novo review of the record, we conclude Williams never asked for new counsel or alerted the court to any breakdown in their relationship. The only discussion was initiated by the court at the suppression hearing after defense counsel admitted not meeting with her client prior to the hearing. The court then allowed Williams to meet with her attorney prior to the hearing. Williams said nothing to indicate dissatisfaction with her attorney at the trial or at the sentencing hearing. See *id.* at 752 (recognizing that “[u]nlike a conflict of interest, a pre-trial breakdown in communication may resolve itself before trial”). Under the circumstances of this case, the district court’s duty of inquiry was not triggered.

AFFIRMED.