UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1082

September Term, 2016

DEVONTE M. DIXON

v.

STATE OF MARYLAND

Woodward, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 5, 2017

Devonte Dixon, appellant, was convicted of first degree burglary and attempted armed robbery, following a jury trial, in the Circuit Court for Montgomery County. On appeal, Dixon contends that a letter he sent to the trial court contained a request to discharge counsel and that the trial court erred in not giving him an opportunity to explain the reasons for that request. For the reasons that follow, we affirm.

After his trial, but prior to his sentencing hearing, Dixon sent the trial court a two-page letter that addressed multiple issues including the admissibility of a photograph that had been introduced at his trial, his innocence, his relationship with his daughter, and a YouTube video that he claimed had been uploaded by the victim following the trial. Approximately half-way down the first page, the letter also stated, "My lawyer Mr. Atkins failed to provide me with the proper assistance of counsel for my defense." At Dixon's sentencing hearing, the prosecutor briefly mentioned the letter, stating:

> [Mr. Dixon] also says that Mr. Atkins failed to provide him with proper assistance. I think that everyone in this room knows that that's not true. Mr. Atkins did a fine job. Mr. Dixon got convicted because Mr. Dixon committed some pretty serious crimes.

The trial court did not ask Dixon whether he wanted to discharge his trial counsel at the sentencing hearing.

When a defendant makes a request to discharge trial counsel after trial proceedings have begun, Maryland Rule 4-215 does not apply. *See State v. Brown*, 342 Md. 404, 412 (1996). Nevertheless, the trial court must still "conduct an inquiry to assess whether the defendant's reasons for dismissal of counsel justifies any resulting disruption." *Id*.

However, before such an inquiry is mandated, the "threshold question" is whether the defendant's statement constituted a request to discharge counsel.

A request to discharge counsel "need not be made in writing or even formally worded." *State v. Davis*, 415 Md. 22, 31 (2010). The required inquiry is triggered by "any statement from which a court could conclude reasonably that the defendant may be inclined to discharge counsel." *Williams v. State*, 435 Md. 474, 486-87 (2013) (citation omitted). In fact, a defendant can make such a request "even when his or her statement constitutes more a declaration of dissatisfaction with counsel than an explicit request to discharge." *See State v. Hardy*, 415 Md. 612, 623 (2010) (citing cases).

But, without more, a general declaration of dissatisfaction with counsel, such as a defendant complaining that counsel is not "effectively representing" him, will not trigger the rule. *See generally Wood v. State*, 209 Md. App. 246, 288 (2012). Instead, there must be some indication "that the defendant has a present intent to seek a different legal advisor." *Davis*, 415 Md. at 33; *see also* Williams, 435 Md. at 479, 489 (Letter to the court stating "I'm writing to request [n]ew representation."); *Hardy*, 415 Md. at 622 (Announcing in court "[I am] thinking about changing the attorney or something."); *State v. Campbell*, 385 Md. 616, 632 (2005) (Defendant stated in court that "I don't like this man as my representative" and "[Y]ou all wouldn't let me fire him.").

Here, Dixon did not make even a colorable request to discharge counsel. Unlike the above cases, Dixon's letter expressed a general dissatisfaction with his counsel's representation at trial but in no way indicated that he was presently entertaining the idea of discharging his attorney prior to the sentencing hearing. Moreover, there was no

reason for the trial court to believe that Dixon was, in fact, making such a request as his statement was buried in a two-page letter that covered a multitude of topics and, when given an opportunity to speak at the sentencing hearing, Dixon did not mention his defense counsel at all. *See generally State v. Northram*, 421 Md. 195, 206 (2011) (holding that the defendant's "vague request that he wanted a 'Court appointed attorney,' buried in the final sentence of what was captioned and pled specifically and solely as a change of venue motion stands in stark contrast to other cases where 4-215 inquiries were mandated").

Finally, the prosecutor's reference to Dixon's letter at the sentencing hearing was not, as Dixon claims, independently "sufficient to trigger the court's responsibility to conduct an inquiry." The prosecutor was simply repeating the contents of the letter, and not alerting the court to any new or unknown information regarding appellant's relationship with counsel. *Cf. Joseph v. State*, 190 Md. App. 275, 282 (2010) (finding that the prosecutor's statement to the circuit court that the defendant had said something to him "about the release of his counsel" was sufficient to trigger the requirements of Rule 4-215).

JUDGMENTS OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT