Circuit Court for Baltimore County
Case Nos. C-03-CR-20-002640 and C-03-CR-21-000060

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 329

September Term, 2023

ANTONIO HICKS

v.

STATE OF MARYLAND

Friedman,
Shaw,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: November 26, 2024

*This is an unreported opinion. It may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to MD. R. 1-104(a)(2)(B).

In this appeal, appellant Antonio Hicks argues that the Circuit Court for Baltimore County erred by failing to properly investigate his dissatisfactions with his attorney both before and after trial. For the reasons that follow, we affirm the judgments of the circuit court.

BACKGROUND

In August 2020, Hicks was charged in two separate indictments with attempted first-degree murder, first- and second-degree assault, possession of a deadly weapon, and threatening to commit mass violence. Hicks was held without bond pending trial. Between February 2021 and March 2022, he submitted nine *pro se* filings seeking pretrial release. In these filings, Hicks requested reconsideration of his no-bail status or immediate bail review on a variety of grounds, including: risk of COVID-19 infection, overpopulation in the jail, his child support obligations, his grandparents' failing health, that his children depended on him emotionally and financially, that his detention was unconstitutional and unlawful because it violated the Eighth Amendment of the United States Constitution and Article 25 of the Maryland Declaration of Rights, and because he was approved for home detention with job resources available, ties to the community, and rehab. All of Hicks' motions were denied. Hicks also filed a *pro se* Notice of Appeal in this Court presenting several arguments challenging his no-bail status. We dismissed that appeal in an unreported opinion. *Hicks v. State*, No. 210, Sept. Term, 2022, (Md. App. Oct. 6, 2022).

After these filings seeking pretrial release, Hicks submitted two additional *pro se* filings that are the basis for his current appellate claims. The first, filed on April 8, 2022, was a document entitled, "Motion to set-Bail on the grounds of ineffective Assistance of

Counsel by the court appointed attorney[.]" It is not clear from the record whether the circuit court took any action on Hicks' motion. On April 22, 2022, however, Hicks' appointed counsel filed a motion alleging that Hicks was not competent to stand trial and the circuit court signed an order for Hicks to be evaluated.

After being found competent, Hicks was tried by a jury in the Circuit Court for Baltimore County and found guilty of attempted first-degree murder and threatening to commit mass violence. The second *pro se* motion at issue, filed nine days after the verdict, was a motion for a new trial and a memorandum of law, requesting a hearing. Hicks claimed that his court-appointed attorney was ineffective and incompetent. Hicks also argued that the evidence offered at trial was insufficient to sustain his convictions and that the verdict was against the weight of the evidence. The circuit court denied the motion, ordering that there was no basis for relief and that no hearing was required. When the State sought to address the motion for new trial at Hicks' sentencing, the circuit court ruled that it had "already denied [the motion] without a hearing."

DISCUSSION

Hicks first argues that his April 2022 motion to set bail due to the ineffective assistance of his court-appointed attorney was sufficient to trigger the application of Maryland Rule 4-215(e), and as a result, the circuit court was required to inquire into his reasons for claiming that he received ineffective assistance of counsel. We disagree.

The operation of Rule 4-215(e) is triggered "[i]f a defendant requests permission to discharge an attorney whose appearance has been entered." MD. R. 4-215(e). Although there are no magic words that a defendant must recite, the statements must show a "present

intent to seek a different legal advisor." *State v. Davis*, 415 Md. 22, 33 (2010). The circuit court is only required to investigate when a defendant makes a "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). We review without deference whether a defendant's statements of dissatisfaction with their attorney constituted a request to discharge counsel. *Williams*, 435 Md. at 483-84; *Davis*, 415 Md. at 29.

Hicks' April 2022 motion was one in a series of unsuccessful attempts to obtain pretrial release. Throughout that process, Hicks had been represented at bail review hearings by at least three different attorneys. Hicks' dissatisfaction with his counsel was in the specific context of his desire to have the circuit court set bail. Under the circumstances, the purpose of Hicks' motion was to alert the court, yet again, that he sought bail review, not that he wished to discharge appointed counsel. *See Wood v. State*, 209 Md. App. 246, 287-88 (2012) (holding that a Rule 4-215(e) inquiry was not required because the appellant's complaint "that he had been 'having problems' with [counsel]" concerned a "'lack of discovery' rather than an attempt to discharge counsel"); *see also State v. Northam*, 421 Md. 195, 206 (2011) (holding that Appellant's "vague request that he wanted a 'Court appointed attorney,' buried in the final sentence of the final paragraph of what was captioned and pled specifically and solely as a change of venue motion[,]" was insufficient to mandate a Rule 4-215 inquiry). We, therefore, conclude that no Rule 4-215 inquiry was required.

In the alternative, Hicks asserts that his post-trial motion for a new trial amounted to a request to discharge counsel. From that premise, Hicks asserts that the circuit court

erred in failing to hold a hearing to address his reasons for wanting to discharge counsel. Hicks concedes, however, that because the request was made after meaningful trial proceedings had begun, the circuit court was not required to strictly follow Rule 4-215(e). *State v. Brown*, 342 Md. 404, 428 (1996) (holding that Rule 4-215 "applies up to and including the beginning of trial, but not after meaningful trial proceedings have begun"); *see also Marshall v. State*, 428 Md. 363, 378 (2012) (holding that meaningful trial proceedings had begun once the venire panel was summoned to the courtroom). Nevertheless, Hicks argues that the circuit court was required to grant him an opportunity to state his reasons for wanting to discharge counsel and was required to exercise discretion within constitutional standards. As a result, Hicks asks this Court to vacate his sentence and remand for resentencing.[1] We are not persuaded.

When a request to discharge counsel is made after meaningful trial proceedings have begun, Rule 4-215 does not apply, and a circuit court has broad discretion to determine whether dismissal of counsel is warranted. *Brown*, 342 Md. at 428. When exercising such

[1] The State contends that this claim is unpreserved. At sentencing, the prosecutor mentioned Hicks' *pro se* motion for new trial and the court stated that the motion had been denied without a hearing. The State now argues that any issues related to Hicks' post-trial motion are unpreserved because Hicks failed to object to the court's ruling at sentencing. We disagree.

Hicks' *pro se* motion for a new trial requested a hearing and included a memorandum of law that also contained a request for a hearing. Hicks was not required to renew his request for a hearing after the motion was denied. *See also* MD. R. 4-323(c) ("For purposes of review by the trial court or on appeal of any other ruling or order, it is sufficient that a party, at the time the ruling or order is … sought, makes known to the court the action that the party desires the court to take or the objection to the action of the court."). This issue is, therefore, preserved for our review.

discretion, the Maryland Supreme Court has suggested that the trial judge consider factors such as the reason for discharge, the quality of counsel's representation up to that point, the disruptive effect that discharge would have on the proceedings, the timing of the request, the complexity and stage of the proceedings, and any prior requests by the defendant to discharge counsel. *Id*. "Generally, the longer the defendant waits to request discharge of counsel, the stronger the rationale must be to warrant counsel's dismissal." *Id*. at 429. We review the circuit court's ruling for an abuse of discretion only. *State v. Hardy*, 415 Md. 612, 621 (2010).

Here, not only had meaningful trial proceedings begun, they had also concluded. The jury had returned a verdict and all that remained to do was sentencing. We consider it almost axiomatic that after a defendant has been convicted of a crime, they may be dissatisfied with their trial representation. Much like Hicks' motion to set bail, his motion for a new trial did not convey an intent to seek different legal counsel, but a different outcome. At that point in the proceedings, however, a defendant who is dissatisfied by the outcome must pursue other avenues for relief, either on direct appeal or in post-conviction proceedings. We, therefore, conclude that the circuit court did not abuse its discretion by not inquiring about Hicks' dissatisfaction with counsel before denying the motion for a new trial.

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