

Circuit Court for Baltimore City
Case No.: 119148031

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 687

September Term, 2023

LORENZO THOMAS

v.

STATE OF MARYLAND

Berger,
Shaw,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 5, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Following a jury trial in the Circuit Court for Baltimore City, Lorenzo Thomas, appellant, was convicted of second-degree murder and related firearm offenses. On appeal, Thomas raises three issues, which we reduce to two: (1) whether the trial court erred in failing to comply with his request to discharge counsel; and (2) whether the evidence was sufficient to sustain his convictions.¹ For the following reasons, we shall reverse Thomas’s convictions and remand for further proceedings.

Four months before trial, Thomas sent a letter directly to the court asking it to “appoint [him] another attorney.” The court acknowledged his request in a response letter, in which it also advised him to contact his attorney about the issue, but the court did not address Thomas’s concerns until reminded of them—by Thomas—on the fourth day of trial. Thomas argues, on appeal, that his request triggered the requirements of Maryland Rule 4-215(e) and that the trial court’s failure to follow that procedure warrants reversal. The State agrees. So do we.

The Sixth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights guarantee a criminal defendant’s right to counsel. *See Gideon v. Wainwright*, 372 U.S. 335, 342–43 (1963); *Walker v. State*, 391 Md. 233, 245 (2006). They also guarantee defendants the right to reject that assistance and represent themselves. *Dykes v. State*, 444 Md. 642, 650 (2015). When defendants, who are already

¹ Thomas also raises an issue concerning whether the trial court allowed inadmissible hearsay into evidence. Given our resolution of the other issues, however, we need not—and so will not—address this issue. If, on remand, the State elects to retry Thomas, any evidentiary admissibility issues will be determined anew based on the facts and argument offered at that time.

represented by counsel, seek to discharge counsel and represent themselves, Maryland Rule 4-215(e) governs.

Subsection (e) breaks down into three steps:

1. The defendant is given an opportunity to explain their reason(s) for discharging counsel.
2. The court determines whether the reason(s) are meritorious.
3. The court advises the defendant and takes other action.

Id. at 652.

This process is mandatory and triggered automatically whenever a defendant requests to discharge counsel. *See State v. Weddington*, 457 Md. 589, 601 (2018); *State v. Davis*, 415 Md. 22, 31 (2010). “[A] court’s departure from [it] constitutes reversible error.” *State v. Hardy*, 415 Md. 612 (2010).

Here, Thomas’s letter to the court was a clear, unmistakable request to discharge his counsel. In fact, the court acknowledged as much. Under Maryland Rule 4-215(e), the court was required to hold a hearing on the matter before trial. *Weddington*, 457 Md. at 603. The court’s failure to do so was not remedied by the eventual discussion of Thomas’s request on the fourth day of trial. By then, the decision of whether to keep or discharge Thomas’s counsel “was already made for him by the [trial] [c]ourt’s failure” to follow Maryland Rule 4-215(e). Accordingly, we must reverse his convictions.

Thomas also contends that the evidence was insufficient to support his convictions. In reviewing this issue, we must “determine whether . . . *any* rational trier of fact could have found the essential elements of the crimes[s] beyond a reasonable doubt.” *Williams*

v. State, 251 Md. App. 523, 569 (2021) (cleaned up). Put differently, “the limited question before us is not whether the evidence should have or probably would have persuaded [most] fact finders but only whether it possibly could have persuaded any rational fact finder.” *Smith v. State*, 232 Md. App. 583, 594 (2017) (cleaned up). We conduct our review keeping in mind our role of reviewing both the evidence—admitted erroneously or not—and all reasonable inferences deducible from it in a light most favorable to the State. *Smith v. State*, 415 Md. 174, 185–86 (2010); *Williams*, 251 Md. App. at 569.

To convict Thomas of second-degree murder, the State had to prove that he both “caused a person’s death” and “engaged in deadly conduct either with the intent to kill or with the intent to inflict such serious bodily harm that death would be the likely result.” *Id.* at 570. At trial, the State proceeded under a theory of accomplice liability, and so had to prove that Thomas committed the crime of assault as either the primary actor or as an accomplice, and that the murder was committed by an accomplice in furtherance of or during the escape from Thomas’s assault of the victim. *See Sheppard v. State*, 312 Md. 118, 122–23 (1988), *abrogated on other grounds by State v. Hawkins*, 326 Md. 270 (1992).

The evidence here showed that, the day before the murder, Tyree Lee—the victim—and “Cuz” went into a house to meet with Thomas while Melinda Lewis, Lee’s girlfriend, waited on the front porch. Lewis heard “a shooting” inside the house, and Lee later texted his mother naming Thomas as the shooter.

The next day, Lee and Lewis were walking to a corner store when Thomas approached. He asked the couple “why [they] were running [their] mouth[s] about the night before.” Lee and Lewis walked away and were joined by “Tony.” Lewis left Lee and Tony

and continued to the store. She saw Thomas approaching Lee and Tony as she left. No one else was nearby. Lewis heard a single gunshot followed by “two or three more.” Although she did not see the shooting, she later identified Thomas in a still frame from the surveillance video and said that he had “shot and killed” Lee.

Montese Massenberg heard the first gunshot from his nearby home. He looked out a window and saw one person on the ground with another person standing over him. The standing person was “fiddling with a gun[.]” The person on the ground ran, and a third person took the gun from the first shooter, chased the victim, “and shot him multiple times.”

Thomas does not disagree that the events Massenberg described were sufficient to convict the two shooters of the crimes the State alleged. He instead contends the evidence was insufficient to establish he was one of those shooters. We disagree.

Thomas’s argument hinges on the fact that, when Massenberg was shown surveillance footage from the area, he identified the two shooters he saw, neither of whom was Thomas. At trial, however, Massenberg described the person initially standing over Lee with the gun as wearing “a dark-colored jacket” with a “red hoodie underneath.” The still frame from the surveillance video in which Lewis identified Thomas showed him wearing the same outfit. To be sure, Thomas points to several inconsistencies in Lewis’s testimony to bolster his argument. But assessing the credibility of witnesses and the resolution of inconsistencies in their testimony is “the fundamental responsibility” of the jury and falls outside our review. *Rothe v. State*, 242 Md. App. 272, 283 (2019).

Ultimately, when viewed in the light most favorable to the State, the combination of Massenberg’s description and Lewis’s identification was sufficient for the jury to find

that Thomas was the person Massenberg saw standing over Lee with the gun. Based on the temporal proximity to the gunshot Massenberg heard, the jury could infer that Thomas shot Lee at least once, causing him to fall. From Massenberg’s description of Thomas “fiddling with [the] gun[,]” the jury could infer that the gun jammed as Thomas was standing over Lee, and Lee took the opportunity to flee. Thomas’s accomplice then took the gun from him and chased Lee, shooting him twice more and killing him. The evidence was, therefore, sufficient to sustain Thomas’s convictions under the State’s theory of accomplice liability. *See Sheppard*, 312 Md. at 122–23. Accordingly, on remand, the State may, in its discretion, elect to retry Thomas.

**JUDGMENTS OF THE CIRCUIT
COURT FOR BALTIMORE CITY
REVERSED. CASE REMANDED
FOR FURTHER PROCEEDINGS
CONSISTENT WITH THIS
OPINION. COSTS TO BE PAID BY
APPELLEE.**