

Circuit Court for Cecil County
Case No. C-07-CR-22-001039

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1457

September Term, 2023

ROBERT ANTHONY HIGGS, JR.

v.

STATE OF MARYLAND

Wells, C.J.,
Leahy,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 6, 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.

Convicted by a jury in the Circuit Court for Cecil County of revenge porn, Robert Anthony Higgs, Jr., appellant, presents for our review a single issue, which for clarity we rephrase: whether the court complied with Rule 4-215. For the reasons that follow, we shall affirm the judgment of the circuit court.

In October 2022, Mr. Higgs was charged. In December 2022, defense counsel, who is an Assistant Public Defender, entered his appearance. On January 9, 2023, Mr. Higgs and defense counsel appeared for trial, which the court postponed at the request of the State.

On May 8, 2023, Mr. Higgs and defense counsel again appeared for trial, and the following colloquy occurred:

[DEFENSE COUNSEL:] Preliminarily, Your Honor, this is going to be a request for a postponement. Mr. Higgs and I have had some discussions. I think at this point in time, there has been a bit of a breakdown in the relationship. I believe Mr. Higgs wants to hire private counsel, and so I would be asking for a postponement so that he can have time to do that. This was postponed once previously on the State's request, I believe, so.

THE COURT: Any comment?

[PROSECUTOR]: Nothing from the State.

THE COURT: All right.

So Mr. Higgs, first, I will just get some information from you.

* * *

So first of all, so [defense counsel] is here. And it looks like your case has been – it seems like it has been postponed before. You have something coming up you hear something about, this [*Hicks*] date.

* * *

You agree to waive your [*Hicks*] right to have this case tried within 180 days?

[MR. HIGGS]: Yes, sir. I understand.

THE COURT: All right.

[MR. HIGGS]: I will.

THE COURT: Then I – have you been in communication with other lawyers? I am not –

[MR. HIGGS]: I didn't.

THE COURT: – striking [defense counsel] right now, so –

[MR. HIGGS]: I have not yet, because I didn't – with this case, I didn't think it was, like –

THE COURT: We don't have to get too deep into it, I just wondered if you talked –

[MR. HIGGS]: No, no, I don't.

THE COURT: Yeah.

[MR. HIGGS]: But no, I wasn't. And then, I actually really wasn't too prepared. And I like Mr. – he's a great guy and stuff, but I –

THE COURT: I like him too.

[MR. HIGGS]: – I need to get –

THE COURT: You have got to be comfortable, it is your, so –

[MR. HIGGS]: Yeah, I don't feel comfortable with him.

THE COURT: – and [defense counsel] will take – or if he does take offense, he won't let you know, but he takes no offense. I always tell people the Public Defender's Office takes no offense.

[MR. HIGGS]: No, I –

THE COURT: Do I believe he could do the case? Yeah. But it's not – it is your case, it is your life. And you have got to do what makes you feel comfortable.

[MR. HIGGS]: Yes, sir.

THE COURT: I am not striking [defense counsel's] appearance right now –

[MR. HIGGS]: Right.

THE COURT: – because it seems like there has not been necessarily a request for that. I don't –

[MR. HIGGS]: No.

THE COURT: Yeah. So that means that we are going to set this for another day until – do we have a date?

THE CLERK: July 17th.

THE COURT: All right. So it is coming up quick, it is July 17th.

[MR. HIGGS]: That is fine.

THE COURT: So one of two things needs to happen. One is, you need to go hire private counsel and get them up to speed quickly. Or two, you need to get up to speed with [defense counsel], and he can still represent you on the 17th of July.

[MR. HIGGS]: Yes. Yes, Your Honor.

THE COURT: So when that date comes, there is going to be the expectation of the case going to trial. And absent you hiring someone, [defense counsel] is going to still be in the case. So it is imperative that unless or until that moment, that you keep up with [defense counsel], so he can be prepared for you.

[MR. HIGGS]: Yes, sir. I will be right on –

THE COURT: Make sense?

[MR. HIGGS]: I will be on the ball more often. I – I apologize.

THE COURT: That is all right.

On July 17, 2023, defense counsel appeared with Mr. Higgs for trial. Defense counsel subsequently appeared with Mr. Higgs throughout trial and sentencing.

Mr. Higgs contends that the statements made by himself and defense counsel during the above colloquy “constituted a request to discharge counsel,” and hence, the court “failed to conduct the inquiry required under” Rule 4-215(e) (“[i]f a defendant requests permission to discharge an attorney whose appearance has been entered, the court shall permit the defendant to explain the reasons for the request”). We disagree. The court inquired as to whether Mr. Higgs had been “in communication with other lawyers” and felt “comfortable” with defense counsel. During the inquiry, Mr. Higgs stated that he “actually really wasn’t too prepared,” and confirmed that he had “not . . . necessarily [made] a request” to discharge defense counsel. When the court granted the request for postponement, rescheduled trial, and advised Mr. Higgs “to go hire private counsel and get them up to speed quickly,” Mr. Higgs indicated his agreement with the court’s action and stated that he would “be on the ball more often.” Finally, Mr. Higgs accepted defense counsel’s representation at trial and sentencing without complaint. In light of these circumstances, we conclude that the court did not violate Rule 4-215.

**JUDGMENT OF THE CIRCUIT COURT
FOR CECIL COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**