Circuit Court for Harford County
Case No. C-12-CR-20-000744
Case No. C-12-CR-19-000844

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

Nos. 1816, 1930

September Term, 2022

BOBBIE SUE HODGE

v.

STATE OF MARYLAND

Nazarian,
Zic,
Harrell, Glenn T.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: September 9, 2024

* This is an unreported opinion. This opinion 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 Rule 1-104(a)(2)(B).

Bobbie Sue Hodge, appellant, was charged with multiple counts of arson, murder, and assault after setting a fire at her home in 2019. Ms. Hodge was held without bail following her arrest, and at a bail review hearing on September 27, 2019, it was ordered that Ms. Hodge continue to be held without bail. In a letter to the court dated October 13, 2019, Ms. Hodge expressed that she was not satisfied with her appointed public defender. The letter was docketed by the Circuit Court for Harford County as received on October 18, 2019. No further action was taken regarding the letter. On October 24, 2022, Ms. Hodge was convicted of multiple counts of first-degree felony murder and second-degree assault, and one count of arson in the first degree. Ms. Hodge was sentenced to four consecutive life sentences with the possibility of parole for each murder, ten years on one count of second-degree assault, and five years for each of the two remaining counts of second-degree assault, all to run consecutively to each other and to the life sentences. The arson conviction merged into the felony murder convictions. This appeal followed.

QUESTIONS PRESENTED

Ms. Hodge presents one question for our review, which we have recast and rephrased as follows:[1]

> Whether the trial court erred in failing to conduct a mandatory hearing under Rule 4-215(e) after Ms. Hodge wrote to the court expressing her dissatisfaction with counsel.

[1] Ms. Hodge phrased the question as follows:

> Did the trial court err in failing to conduct a 4-215(e) colloquy after Ms. Hodge wrote to the court expressing her dissatisfaction with counsel?

For the following reasons, we hold that the circuit court erred when it failed to hold a hearing pursuant to Maryland Rule 4-215(e) regarding whether and why Ms. Hodge desired to discharge counsel. We, therefore, are required to reverse the convictions and remand for a new trial.

BACKGROUND

Facts

On July 1, 2019, Ms. Hodge was arrested after setting a fire at her home on May 9, 2019. The fire resulted in the immediate deaths of three individuals. Ms. Hodge was initially charged with twenty counts in Case No. C-12-CR-19-000844: first-degree arson, second-degree arson, three counts of first-degree murder, three counts of second-degree murder, four counts of attempted second-degree murder, four counts of first-degree assault, and four counts of second-degree assault. The indictment in Case No. C-12-CR-19-000844 was filed on July 30, 2019. Following the death of a fourth individual, Ms. Hodge was indicted on an additional count of first-degree murder in Case No. C-12-CR-20-000744 on December 8, 2020. The two cases were subsequently consolidated.

Following her arrest, Ms. Hodge was ordered to be held without bail on July 2, 2019. At a bail review hearing on September 27, 2019, it was ordered that Ms. Hodge continue to be held without bail. Following this denial of bail, Ms. Hodge wrote a letter addressed to a judge on the circuit court. Ms. Hodge's letter is reproduced here in its entirety:

Judge [],

I am sending you this letter because the address I had giveing you befor is not any good no more. Because my frie[n]d is in the hospital. So please help me make bail and go get myself a address at a motel. My brother is helping me with my bills and he will come here at court when my trial is up. His name and phone number is James Dean Hodge Jr. Nickname is Richard. Address [address, phone number]. He has the same job for the State of NC for about 15 years. Please let him get me a place here in Maryland at a motel so I can have a address and get out on bail.

I will do whatever you say for me to do. I truly did not do this crime and I would like to help myself to prove it. I have lost my dog and I truly think I can get him back because of him being a service dog. I thank you so very much for your time. Again I ask you please help me. I did not do this crime. I promise to GOD as my witness the truth and nothing but the truth. AMEN.

Thank you again.

Bobbie Sue Hodge

Over

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I am writing you for myself because *I have asked my public defender's to say my word's and help me make bail and they have been dragging there feet*. I have been in this jail for 4 month's.

I am not satisfied with my public defender's. They have not truly said anything in my defense. So please once again I ask for your help.

Thank you for your time

I also hope my public defenders dont get upset at me for standing up for myself.

Bobbie Sue Hodge

(Emphasis added).

The letter was dated October 13, 2019. Ms. Hodge completed an accompanying Certificate of Service, certifying that she mailed a document entitled "Letter to Judge []" on October 14, 2019. On October 18, 2019, Ms. Hodge's letter was received by the circuit court and docketed as "Correspondence" with the additional comment of "letter to Judge."

At this point, Ms. Hodge had only appeared before the circuit court on two occasions: at her initial appearance on August 19, 2019, and at her bail review hearing on September 27, 2019. No action was taken by the circuit court regarding the letter following its receipt. There were 18 additional pretrial proceedings over the course of the following three years. Ms. Hodge's letter to the court was never addressed at any of these proceedings. At eight of the hearings, the court asked Ms. Hodge's counsel if there was "anything" else to be addressed. On these occasions, counsel for Ms. Hodge either did not respond, or affirmatively told the court there was nothing else to be addressed. The case moved forward to trial, with jury selection beginning on October 5, 2022, and opening statements presented on October 12, 2022. On October 24, 2022, following a lengthy trial, Ms. Hodge was convicted of first-degree arson, four counts of first-degree felony murder, and three counts of second-degree assault. On December 19, 2022, Ms. Hodge was sentenced to four consecutive life sentences with the possibility of parole for each murder, ten years on one count of second-degree assault, and five years for each of the two remaining counts of second-degree assault, all to run consecutively to each other

and to the life sentences. The arson conviction merged into the felony murder convictions. This appeal followed.

Parties' Contentions

Ms. Hodge claims that the circuit court erred when it failed to provide Ms. Hodge with an opportunity to be heard after expressing dissatisfaction with counsel, as is required by Maryland Rule 4-215(e). Ms. Hodge argues that her letter to the circuit court, stating in part "I am not satisfied with my public defenders. They have not truly said anything in my defense," was sufficient to trigger a hearing pursuant to Maryland Rule 4-215(e).

In response, the State argues that given the context of the letter, which largely expressed Ms. Hodge's desire to "make bail," it could not be construed from Ms. Hodge's letter that she was requesting a new attorney. Furthermore, the State argues that even if Rule 4-215(e) was triggered, Ms. Hodge's failure to raise the request again at any of her subsequent 18 pre-trial hearings, or otherwise, did not reflect a present intent to discharge counsel.

STANDARD OF REVIEW

The matter before us exclusively concerns the interpretation of Maryland Rule 4-215(e). "Our interpretation of the Maryland Rules is a question of law." *State v. Weddington*, 457 Md. 589, 598 (2018) (citing *Williams v. State*, 435 Md. 474, 483 (2013)). In determining whether the circuit court complied with the requirements of Rule 4-215(e), we review the circuit court's ruling *de novo*. *Weddington*, 457 Md. at 598-99 (citing *State v. Graves*, 447 Md. 230, 240 (2016)).

DISCUSSION

I. MS. HODGE'S LETTER WAS SUFFICIENT TO TRIGGER RULE 4-215(e).

Maryland Rule 4-215(e) provides:

> Discharge of Counsel--Waiver. *If 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*. If the court finds that there is a meritorious reason for the defendant's request, the court shall permit the discharge of counsel; continue the action if necessary; and advise the defendant that if new counsel does not enter an appearance by the next scheduled trial date, the action will proceed to trial with the defendant unrepresented by counsel. If the court finds no meritorious reason for the defendant's request, the court may not permit the discharge of counsel without first informing the defendant that the trial will proceed as scheduled with the defendant unrepresented by counsel if the defendant discharges counsel and does not have new counsel. If the court permits the defendant to discharge counsel, it shall comply with subsections (a)(1)-(4) of this Rule if the docket or file does not reflect prior compliance.

Md. Rule 4-215(e) (emphasis added).

The Supreme Court of Maryland has repeatedly held that the requirements of Maryland Rule 4-215 are mandatory. *See*, *e.g.*, *Weddington*, 457 Md. at 606; *Williams*, 435 Md. at 486; *Pinkney v. State*, 427 Md. 77, 87 (2012); *Lopez v. State*, 420 Md. 18, 31 (2011). As such, the Rule requires "strict compliance." *Pinkney*, 427 Md. at 87. A Rule 4-215 violation is not subject to harmless error review. *Lopez*, 420 Md. at 18 (citations omitted). Therefore, "a trial court's departure from the requirements of Rule 4-215 constitutes reversible error." *Pinkney*, 427 Md. at 88 (citations omitted).

Once a defendant makes a statement requesting the discharge of present counsel, the court must hold a hearing to determine whether there is a meritorious reason for the request. *Id.*; *Williams*, 435 Md. at 487 ("Once Rule 4-215(e) is triggered, the trial court has an affirmative duty to address the defendant's request."). Failure to do so constitutes reversible error. *Pinkney*, 427 Md. at 88.

The Supreme Court of Maryland has interpreted Rule 4-215(e) on multiple occasions to determine whether statements made by defendants amounted to actual requests to discharge counsel. *See, e.g.*, *Weddington*, 457 Md. at 607-08 (holding Rule 4-215(e) was triggered when defendant made multiple "clear, unmistakable requests to discharge his counsel"); *Williams*, 435 Md. at 488-89 (holding Rule 4-215(e) was triggered when defendant's letter "clearly, solely, and unequivocally" expressed intention to discharge counsel); *State v. Northam*, 421 Md. 195, 206 (2011) (holding Rule 2-415(e) was not triggered when defendant's "vague request" for a new attorney was "buried in the final sentence of the final paragraph" of a change of venue motion); *State v. Hardy*, 415 Md. 612, 622-23 (2010) (holding Rule 4-215(e) was triggered when defendant stated that he was "thinking about changing [his] attorney or something"); *State v. Davis*, 415 Md. 22, 36 (2010) (holding Rule 4-215(e) was triggered when defendant's counsel stated to the court that defendant "'told [counsel] he didn't like [counsel's evaluation of the facts of the case]. Wanted a jury trial and new counsel. [Counsel] told [defendant] it was very unlikely that the Court was going to award him another attorney in this case'"); *State v. Campbell*, 385 Md. 616, 632 (2005) (holding Rule 4-215(e) was triggered when

defendant made statements regarding his attorney including "I don't like this man as my representative" and "He ain't have my best interest at heart").

We understand these cases to mean that the threshold for triggering Rule 4-215(e) is low. We find *Williams* to be particularly instructive in this regard. In *Williams*, Mr. Williams wrote a letter to the court, in which he stated "Im writting to request New representation From the Public defender's office. . . . [Current counsel] has truly No interest on my behalf in trying to help me on my case. I truly feel Im being mis-represented. May U please remove him from my case." *Williams*, 435 Md. at 479. The letter was docketed as "Letter of Defendant requesting new representation from the public defender's office. Filed: 1/29/10 Entered: 2/17/10." *Id.* No action was taken regarding Mr. Williams' letter over the following 16 months, including multiple court appearances and a two-day jury trial, throughout which he was represented by the same counsel. *Id.* at 479-80.

The Supreme Court held that Mr. Williams' letter was sufficient to trigger Rule 4-215(e). Defining a discharge request, the Court in *Williams* stated:

> [A] defendant need not "utter a talismanic phrase," *Leonard v. State*, 302 Md. 111, 124 (1985), or "state his position or express his desire to discharge his attorney in a specified manner" to trigger the rigors of the Rule. *Davis*, 415 Md. at 32. Moreover, a request to discharge an attorney need not be explicit. *See* [Hardy, 415 Md. at 623] ("A defendant makes such a request when his or her statement constitutes more a declaration of dissatisfaction with counsel than an explicit request to discharge."). Rather, Rule 4-215(e) is triggered by any statement from which a court could conclude reasonably that the defendant may be inclined to discharge counsel. *State v. Taylor*, 431 Md. 615, 634 (2013); *Hardy*, 415 Md. at 623; *Davis*, 415 Md. at 31; *Leonard*, 302 Md. at 124.

415 Md. at 486-87. The Supreme Court held that Mr. Williams' letter "clearly, solely, and unequivocally" stated that he sought to discharge counsel. *Id.* at 488-89. As such, a Rule 4-215(e) inquiry was mandatory. *Id.* at 489.

We also find *Weddington* particularly apt to our analysis. In *Weddington*, Mr. Weddington sent three letters to the court, which, among other things, expressed dissatisfaction with counsel. 457 Md. at 593-95. Although a Rule 4-215(e) hearing was held following receipt of the first letter—at which the court found no meritorious reason for counsel to be discharged—the court did not hold hearings regarding the second or third letters. *Id.* In his second letter to the court, Mr. Weddington stated that he was not getting along with counsel, "words have been [ex]changed and I'm not trusting her at all," and that counsel failed to investigate the motivations of complaining witnesses. *Id.* at 594. This letter was received by the court; however, the only action taken by the court was to send copies to the State's Attorney and the Public Defender. *Id*. The third letter similarly expressed Mr. Weddington's dissatisfaction with counsel; however, the court did not become aware of the letter until after Mr. Weddington's trial. *Id.* at 594-95. The court held a hearing following the trial to inquire into Mr. Weddington's reasons for discharging counsel, finding that the request was without merit. *Id.* at 595-97.

The Supreme Court recognized that it "has espoused a broad interpretation of what constitutes a request to discharge counsel." *Id.* at 601 (citations omitted). Mr. Weddington's requests were "clear, unmistakable requests to discharge his counsel." *Id.* at 602. As such, like in *Williams*, the court was required to hold a Rule 4-215(e) inquiry

to hear the merits of Mr. Weddington's request, a point which the State itself conceded. *Id.*

The State urges that we instead find *Northam* to be controlling. In *Northam*, Mr. Northam sent multiple letters to the court. 421 Md. 198-99, 201-203. In his first two letters, Mr. Northam indicated that he was "dropping [his] public defender" and wanted a "Probono [sic] Lawyer." *Id.* at 198-99 (second alteration in original). The court conducted a hearing regarding the merits of Mr. Northam's requests, and Mr. Northam continued to be represented by the same counsel. *Id.* at 199-201. Mr. Northam filed a third letter requesting a change of venue, which was denied. *Id.* at 201-02. Mr. Northam then filed a fourth letter captioned as a "Motion for Change of Venue." *Id.* at 202-03. The first three paragraphs addressed Mr. Northam's desire for a new venue; in the final paragraph, Mr. Northam stated that he was "requesting a Court appointed attorney and Change of Venue." *Id.* Although there were additional hearings prior to trial following receipt of this letter, the court did not inquire whether Mr. Northam again intended to discharge counsel. *Id.* at 203.

The Supreme Court held that Mr. Northam's fourth letter alerted only to his desire for a change of venue and did not trigger Rule 4-215(e). *Id.* at 206. The Court agreed with the State's argument that Mr. Northam'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 stands in stark contrast to other cases where 4-215 inquiries were mandated." *Id.* Because Mr.

Northam's request was "buried" in a motion largely concerning a change of venue, Rule 4-215(e) was not triggered. *Id*.

We recognize that Ms. Hodge's request to discharge counsel falls somewhere in between *Northam*, and *Weddington* and *Williams*. Unlike the letter in *Williams*, Ms. Hodge's letter was captioned merely "Correspondence" and "letter to Judge" rather than a caption explicitly referencing her intention to discharge counsel. *Williams*, 435 Md. at 479. Unlike the letter in *Northam*, however, which indicated an entirely different subject matter, the caption of Ms. Hodge's letter was not misleading regarding the contents. *Northam*, 421 Md. 202-03. An unspecific caption alone does not negate any duty of the court to read the contents of Ms. Hodge's letter and recognize that a Rule 4-215(e) hearing may be necessary.

The State contends that because Ms. Hodge's letter continuously addresses her desire to "make bail," it should be read as being a letter about bail rather than about discharging counsel. In support of this argument, the State treats Ms. Hodge's letter as akin to Mr. Northam's, arguing that Ms. Hodge's expressions that she was not satisfied with counsel were akin to Mr. Northam's reference to wanting a "Court appointed attorney" in his venue change motion. *Northam*, 421 Md. at 203. This misunderstands the Supreme Court's holding in *Northam*. Mr. Northam's request for a new attorney did not trigger Rule 4-215(e) because it was a fleeting reference "buried in the final sentence of the final paragraph" of a motion specifically captioned to address a different topic—not purely because Mr. Northam's motion also concerned a change of venue request. *Id*. at 206. Although Ms. Hodge's expression of dissatisfaction was written on the second

page of a two-sided letter, it was by no means buried. Quite the opposite: Ms. Hodge wrote "Over" at the bottom of the first page, indicating to the reader that there was a second page to be read that included multiple sentences addressing her dissatisfaction with her public defender.

Finally, the State argues that Ms. Hodge did not request new counsel or to discharge counsel. As noted above, Ms. Hodge did not need to state her request to discharge her attorney in any specific way; Rule 4-215(e) is triggered even if the "statement constitutes more a declaration of dissatisfaction with counsel than an explicit request to discharge." *Hardy*, 415 Md. at 623. As such, the threshold for triggering Rule 4-215(e) is low, as is fitting when the circuit court can readily provide a remedy. The circuit court need only hear a defendant's reasoning for requesting new counsel and determine if such a request is with or without merit. Following up with a defendant regarding a potential request to discharge counsel may be a "simple inquiry." *Davis*, 415 Md. at 35. "This is not too much to ask of a judge when the protection of a fundamental constitutional right is at issue." *Id.* Ms. Hodge clearly indicated her concerns by stating "I am not satisfied with my public defenders. They have not truly said anything in my defense." This constituted a request to discharge counsel that was sufficient to trigger Rule 4-215(e) requiring a hearing on the merits of Ms. Hodge's request. The court's failure to conduct such a mandatory hearing in violation of Rule 4-215(e) was legal error and requires reversal.

II. MS. HODGE'S FAILURE TO REASSERT HER REQUEST FOR NEW COUNSEL DID NOT AMOUNT TO WAIVER OF THE PROTECTIONS OF RULE 4-215(e).

The State contends that even if Rule 4-215(e) had been triggered by Ms. Hodge's letter, because she did not repeat her request for new counsel at any of her subsequent 18 hearings prior to trial, this amounted to a withdrawal of her request for new counsel. Specifically, the State argues that Ms. Hodge's failure to repeatedly raise her request for new counsel is "inconsistent with a claim that there was a pending request or motion[] which reflected a present desire to discharge counsel." The State cites *Williams* to support this argument, noting that the defendant's statement must indicate that the defendant presently seeks different counsel.

While we agree that a defendant must presently intend to discharge counsel when the statement is made, the State misinterprets *Williams*. In *Williams*, the State also argued that although Mr. Williams used the present tense in the letter he sent to the court requesting new counsel, Mr. Williams effectively waived the request by failing to re-assert his request in his five subsequent court appearances. *Williams*, 435 Md. at 485. The Court disagreed, stating:

> [Mr.] Williams's request was written and expressed in the present tense. It would be illogical to hold that a court may allow a defendant's expression of a present desire to discharge counsel (sufficient to trigger Rule 4-215(e)) to moulder into a past desire (not sufficient to trigger the Rule) by neglecting, overlooking, or otherwise failing to address promptly the defendant's clear request. Moreover, even if we were to accept the argument that [Mr.] Williams's aged request reflected a past desire, *Davis*[, 415 Md. 22] requires that the court determine, at some point prior to trial, whether

> [Mr.] Williams continued to harbor an intent to discharge counsel.

435 Md. at 491.

We find *Davis* relevant as well. In *Davis*, on the morning of trial, the court-appointed counsel for Mr. Davis informed the court that Mr. Davis "'told [counsel] he didn't like [counsel's evaluation of the facts of the case]. Wanted a jury trial and new counsel. [Counsel] told [Mr. Davis] it was very unlikely that the Court was going to award him another attorney in this case.'" 415 Md. at 27. On appeal, the State argued that because this statement represented only Mr. Davis' prior intent to discharge counsel, Rule 4-215(e) was not triggered. The Supreme Court held that although Rule 4-215(e) mandates an inquiry only when the defendant indicates a present intent to seek new counsel, "the Court at least was required to inquire further so it could determine whether [Mr.] Davis still maintained that intent." *Davis*, 415 Md. at 33. The Court continued, explaining that even if it was unclear to the circuit court whether Mr. Davis was truly seeking to discharge counsel, "it could have easily eliminated its uncertainty by questioning [Mr.] Davis himself about the reasons for his attorney's statement." *Id.* at 35.

We find Ms. Hodge's case to be akin to *Williams* and *Davis*. Ms. Hodge's letter, as noted above, amounted to a desire to discharge counsel when the letter was written. In her letter, Ms. Hodge stated: "I am not satisfied with my public defenders. They have not truly said anything in my defense." At the time the letter was written, this clearly reflected Ms. Hodge's present dissatisfaction with counsel following her failure to make bail. The State argues that Ms. Hodge's failure to raise the issue of discharging counsel

at any of her 18 subsequent court appearances amounts to a waiver of her request. The State seems to interpret Rule 4-215(e) and case law to require that once Ms. Hodge made a request to discharge counsel, she must repeat that request at every appearance before the court until the court finally conducts its mandated inquiry into her request.

We disagree. Rather, we see 18 instances where the circuit court could have fulfilled its duty by conducting an inquiry into Ms. Hodge's reasons for wanting to discharge counsel and failed to do so. Nowhere in Rule 4-215(e) or applicable case law do we read this burden to be placed on the defendant. In every instance, once Rule 4-215(e) is triggered, the onus is on the circuit court to hold a hearing to determine whether the request for discharge is meritorious. It is not the defendant's burden to repeatedly request discharge of counsel until the circuit court fulfills its duty. As the Court held in *Williams*, "[i]t would be illogical to hold that a court may allow a defendant's expression of a present desire to discharge counsel (sufficient to trigger Rule 4-215(e)) to moulder into a past desire (not sufficient to trigger the Rule) by neglecting, overlooking, or otherwise failing to address promptly the defendant's clear request." 435 Md. at 491. As noted above, addressing a defendant's request need only be a "simple inquiry." *Davis*, 415 Md. at 35. Ms. Hodge was never required to readdress her dissatisfaction with counsel and the circuit court's failure to address her statements following its receipt of her letter constitutes a violation of Rule 4-215(e) requiring reversal.

CONCLUSION

We hold that Ms. Hodge's letter expressing dissatisfaction with her counsel was sufficient to constitute a request to discharge counsel under Rule 4-215(e) requiring a hearing on the merits. The circuit court's failure to inquire with Ms. Hodge regarding her reasons for the request constitute a violation of Rule 4-215(e). We additionally hold that Ms. Hodge's failure to continuously raise the issue of discharge of counsel at each of her subsequent court appearances does not amount to a withdrawal of her request. Thus, the circuit court's failure to comply with Rule 4-215(e) constitutes reversible error.

CONVICTIONS REVERSED; CASE REMANDED FOR A NEW TRIAL AND FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY HARFORD COUNTY.