

Circuit Court for Somerset County
Case No.: C-19-CR-17-000185

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 21

September Term, 2018

JOEL COLLINS

v.

STATE OF MARYLAND

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

JJ.

PER CURIAM

Filed: November 21, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

On March 5, 2018, Joel Collins, appellant, was sentenced by the Circuit Court for Somerset County, for first-degree assault to twenty years’ incarceration, all but twelve years suspended, to be followed by two years’ probation. All other counts merged.¹ Collins presents one question for our review: “Did the trial court err in preventing Mr. Collins from discharging his counsel before sentencing?” For the reasons that follow, we answer the question in the negative and affirm.

BACKGROUND

At the beginning of his sentencing hearing, Collins requested a postponement for purposes of obtaining a new attorney. The following ensued:

[DEFENSE COUNSEL]: Your Honor, I believe Mr. Collins wishes to address the Court.

THE COURT: I’m happy to hear from you.

COLLINS: I would like to postpone this so I can get another lawyer.

THE COURT: And why do you want to do that?

COLLINS: Because I don’t think he’s meeting my needs.

THE COURT: And specifically, Mr. Collins, why do you say that?

COLLINS: By refusing to answer any more questions.

THE COURT: Well, let me read you the law. Let me read you the law okay. It’s Rule 4-215, it’s waiver of counsel or discharge of counsel, specifically subsection E. If the 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

¹ Following a bench trial, Collins was convicted of first-degree assault, second-degree assault, false imprisonment, and reckless endangerment.

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 should comply with subsections A 1 through 4 of this rule, if the docket or file does not reflect prior compliance.

Look, we've known each other a long time, right?

COLLINS: Yes, sir.

THE COURT: And I'm not trying to tell you to answer my questions if you don't want to answer the questions, but I have to ask you the specific reasons why you want to discharge, because that's what the rule says. Can you point to something specifically that [defense counsel] has done or didn't do?

COLLINS: He ain't done nothing for me, really.

THE COURT: **And do you want to be a little more specific with me?**

COLLINS: **No.**

THE COURT: [Defense counsel], how long have you been practicing law?

[DEFENSE COUNSEL]: Since 1996, Your Honor.

THE COURT: How long have you been with the Public Defender's Office?

[DEFENSE COUNSEL]: Since 2000.

THE COURT: How long have you been practicing on the lower shore?

[DEFENSE COUNSEL]: Since 2004 full time, but I was here before that as well.

THE COURT: How many bench trials would you say that you have participated in?

[DEFENSE COUNSEL]: Well over 100, Your Honor.

THE COURT: How about jury trials?

[DEFENSE COUNSEL]: Probably over 5 or 600.

THE COURT: What percentage would you say have you been successful with those trials?

[DEFENSE COUNSEL]: It's always tough but a significant portion of them.

THE COURT: Mr. Collins, I've known [defense counsel] since 2004, I've been here for 27 years. He is quite simply one of the very best defense attorneys in this area.

COLLINS: I heard.

THE COURT: He has been down here for awhile but before Mr. Powell was State's Attorney when Kristy Hickman was State's Attorney, do you remember when Ms. Hickman was here and Ms. Dean was deputy? [Defense counsel] was down here for a significant period of time in front of me and won a lot of cases. Now, he doesn't win them all but it's not always his fault if he loses a case, do you understand that? I think he's one of the best. **Do you still want to discharge him?**

COLLINS: **No, sir.**

THE COURT: **You want to keep him?**

COLLINS: **Yes, sir**

THE COURT: You comfortable?

[DEFENSE COUNSEL]: Absolutely, I am.

(Emphasis added).

DISCUSSION

Collins asserts that under *State v. Brown*, when considering whether to permit discharge of counsel during trial, a judge has broad discretion but is required to consider six factors: (1) the merits of the reason for discharge; (2) the quality of counsel's representation prior to the request; (3) the disruptive effect, if any, that discharge would

have on the proceedings; (4) the timing of the request; (5) the complexity and stage of the proceedings; and (6) any prior requests by the defendant to discharge counsel. 342 Md. 404, 428-29 (1996). Collins claims there was an automatic abuse of discretion in his case because the trial court only considered the second factor and failed to consider all the others.

The State responds that “the sentencing court was not required to comply with Rule 4-215 because Collins never gave the court an adequate reason to discharge counsel, and then withdrew his request to discharge.” In the alternative, the State argues that if the court denied appellant’s request to discharge, it did not abuse its discretion in doing so because the court’s consideration of the six factors did not need to be specifically articulated and were “obvious and self-explanatory.”

The Court of Appeals held in *Brown*, that “Rule 4-215(e) does not apply to decisions to discharge counsel after trial has begun” and “the trial court has broad discretion...to determine whether dismissal of counsel is warranted.” *Id.* at 428. Therefore, we review the court’s decision under the abuse of discretion standard.

In *State v. Hardy*, the Court of Appeals was confronted with a very similar situation as here. 415 Md. 612 (2010). There, after trial had begun the defendant asked to discharge his counsel and explained the reasons underlying his dissatisfaction. *Id.* at 616. Then the trial court warned him of the dangers of proceeding without counsel and in response, the defendant withdrew his request. *Id.* The Court of Appeals found that “the only burden [*Brown v. State*] places on the [trial] court is the duty to *provide an opportunity* for the defendant to give an explanation,” thus making it possible to consider the six factors. *Id.* at

629-30. “All six of these factors, however, may be considered in a brief exchange between the court and the defendant about the defendant’s reasons for requesting the dismissal of defense counsel.” *Id.* at 629. In other words, the circuit court need not articulate each *Brown* factor when deciding whether to allow the defendant to discharge counsel and need only allow the defendant an opportunity to explain why he/she wishes to discharge counsel.

In the instant case, the court asked Collins several times why he wished to discharge his counsel and asked several times for Collins to be more specific. Clearly, the court “provided an opportunity for [Collins] to give an explanation.” After the court pointed out that Collins’ attorney was one of the best, Collins voluntarily withdrew his request. Given that the court satisfied its “only burden” under *Brown* by allowing Collins to explain the reasons for his request, its failure to articulate the six factors was not an automatic abuse of discretion. In sum, because Collins was vague, would not give more specific reasons when asked, and ultimately withdrew his request, there was no abuse of discretion.

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