

Circuit Court for Howard County
Case No. C-13-CR-23-000182

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 86

September Term, 2024

CARLOS RODRIGUEZ

v.

STATE OF MARYLAND

Shaw,
Albright,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Shaw, J.

Filed: November 7, 2025

*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).

Appellant Carlos Rodriguez was indicted in the Circuit Court for Howard County on two counts: failure to return a motor vehicle and theft (\$1,500 - \$25,000). During a hearing before the circuit court, Appellant asked to dismiss his attorney and following the court's inquiry, his request was granted. Appellant proceeded *pro se* and he was convicted of failure to return a motor vehicle by a jury. The court sentenced him to one year imprisonment, suspending all but the time he served, and two years of supervised probation. This timely appeal followed. Appellant presents one question for our review:

1. Did the trial court fail to comply with Rule 4-215 when it permitted Mr. Rodriguez to discharge counsel without informing him of the allowable penalties he faced and without ensuring that he was provided with a copy of the charging document?

We hold that the circuit court failed to comply with the requirements of Rule 4-215(a)(3). Accordingly, we reverse the judgment.

BACKGROUND

On December 23, 2022, Appellant was charged with violations of sections 7-104 and 7-205 of the Maryland Criminal Law Article in the District Court for Howard County. Appellant was seen by a District Court Commissioner for his initial appearance. The Commissioner advised him of his rights, the charges and the allowable penalties, and gave him a copy of his charging document. An Initial Appearance Report (the "Report") was filed that day, and the Report indicates that the Commissioner notified Appellant of his right to counsel, a right to an attorney from the Public Defender's Office if he was indigent, the benefits of counsel, the consequences of waiving the right to an attorney, and included a page titled "IMPORTANT NOTICE" which explained that "the attached papers charge

you with committing a crime.” Appellant signed and dated the Report at the conclusion of his hearing before the Commissioner.

On February 10, 2023, counsel for Appellant filed a Notice to Enter Appearance in the District Court for Howard County. A status hearing was held on April 4, 2023, and Appellant requested a jury trial. The case was then transferred to the circuit court. Counsel for Appellant filed a Notice to Enter Appearance in the Circuit Court for Howard County on April 14, 2023. A pretrial hearing was held on June 5, 2023, prior to the commencement of trial proceedings. Appellant was represented by counsel at the pretrial hearing. The court advised Appellant of his right to counsel.

THE COURT: You have a right to be represented by an attorney in this case. An attorney can help you in explaining the charges you are facing, explaining all possible penalties that may be imposed upon you, helping you throughout the prosecution and trial and all pretrial proceedings and helping you get a fair penalty if you are convicted and advising you of any appeal rights or rights to seek a new trial or reconsideration or review of any sentence you may receive if you are convicted. . . And if you do not have a lawyer before the trial, the judge will ask you why you’re not represented by counsel. The judge may find your reason for not having a lawyer may not have merit. If that happens, the judge may find you have waived your right to counsel even though you said you want one by failing to act promptly to obtain one either privately or through the office of the public defender. Do you understand your rights to representation, sir?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you have any questions?

THE DEFENDANT: No, sir.

Appellant affixed his signature to an Advice of Rights to Counsel Form that was given to him confirming “that I have been advised of the above and that I understand everything that I have been told.”

At the beginning of court proceedings on that same day, Appellant made a request to dismiss his counsel. The court informed Appellant that his public defender was “an able and capable lawyer”¹ and that if Appellant chose “to dismiss her from [his] case, this case is not going to be postponed . . . and when you dismiss her from your case, you’ll dismiss the entire office of the public defender.”² The court explained to Appellant that counsel for the State “is an experienced prosecutor”³, and that if Appellant dismissed his public defender, he “will be going up against a trained attorney, trained prosecutor.”⁴ Appellant affirmed that he understood, and he provided the following reasons for seeking the dismissal of his counsel.

THE DEFENDANT: I’ll summarize my case in the simplest, easiest form. My constitutional rights were violated. And she [Public Defender] has not brought up that defense on my case. I have been waiting for exculpatory evidence that this prosecutor has not yet released. It has been multiple times. Exculpatory evidence will exonerate me from this case, period.

There is a case that has been entered already that was nol-prossed. That was not prosecuted. I wasn’t properly served.

Furthermore, I was arrested again for that same case, plus I was added a felony charge that took my liberty and my freedom away.

[. . .]

¹ From the Official Transcript of Proceedings – Jury Trial 12/4/2023, 6.

² *Id.*, 6-7.

³ *Id.* at 7.

⁴ *Id.*

Now that – for that reason, my case – my constitutional rights come first before this case.

Now, I’m going to challenge the prosecutor that the false allegations – there is no police report. There is no entry of a police report of a stolen vehicle in the system nor of a recovered vehicle system.

[. . .]

And I got the proof that the officer went by that information from that report – from that incident report. And they have not been able to produce the vehicle theft report, the recovery of the vehicle theft report.

The exculpatory evidence that they’re basing this whole case about of a rental agreement, they haven’t been able – a whole year, Your Honor. A whole year, Your Honor.

My due process, my constitutional rights were violated. And they’re being violated right now.⁵

The court granted Appellant’s request to dismiss his attorney. Appellant then proceeded without counsel, and at the conclusion of a three-day jury trial, he was convicted of failure to return a motor vehicle. The court sentenced him to one year imprisonment, suspending all but the time he served, and two years of supervised probation. He noted this timely appeal.

STANDARD OF REVIEW

Appellate courts apply a *de novo* standard of review in determining whether a trial court properly complied with Maryland Rule 4-215. Strict adherence by the trial court is required and a failure to comply with “the Rule constitutes reversible error.” *Broadwater*

⁵ *Id.*, 8-10.

v. State, 401 Md. at 182; *Moten v. State*, 339 Md. 407, 411 (1995); *Gutloff v. State*, 207 Md. App. 176 at 191-92 (citing *Webb v. State*, 144 Md. App. 729, 741 (2002)).

A “trial court’s determination that a defendant had no meritorious reason to discharge counsel under Rule 4-215(e) is reviewed for an abuse of discretion.” *Cousins v. State*, 231 Md. App. 417, 438 (2017) (citation omitted). “To constitute an abuse of discretion, the decision has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *Id.* (cleaned up); *Hargett v. State*, 248 Md. App. 492, 509-10 (2020).

DISCUSSION

Appellant argues that the circuit court failed to comply with Md. Rule 4-215 when it permitted him to discharge his counsel. Appellant contends that the court did not inform him of the possible penalties and did not ensure that he was given a copy of his charging document. Appellant asserts that Rule 4-215 advisements must be given by a judge and not a commissioner, and, thus, the advisements and documents given to him in the district court do not relieve the court of its responsibilities. Appellant also contends that because there is no transcript or recording of his appearance before the District Court Commissioner, there is no viable method to prove that his Rule 4-215 advisements were given or that he understood them.

The State argues that Appellant was informed of the potential penalties that he faced, and he was given a copy of his charging document by a District Court Commissioner

in the District Court of Maryland for Howard County, where the case originated. The State contends that is “all the law requires to effectuate Rule 4-215 compliance.”

Under the Sixth Amendment of the U.S. Constitution, a defendant in a criminal case has the right to counsel. U.S. CONST. amend. VI ; Md. Const. Declaration of Rights, Art. 21. Indigent defendants have the right to appointed counsel, but “that right does not afford an indigent defendant the right to select the appointed counsel of his or her choice.” *Cousins v. State*, 231 Md. App. 417, 436 (2017) (citing *Dykes v. State*, 444 Md. 642, 648 (2015)). The right to appointed counsel also does not give a criminal defendant “an unfettered right to discharge current counsel and demand different counsel shortly before or at trial.” *Id.* (citing *Fowlkes v. State*, 311 Md. 586, 605 (1988)). “An indigent defendant may waive the right to assistance of counsel and choose to represent him- or herself.” *Id.* (citing *Williams v. State*, 321 Md. 266, 270 (1990)).

Maryland Rule 4-215 specifies the court’s responsibilities when a defendant seeks to waive or discharge counsel. It includes “safeguards to ensure that the defendant is acting knowingly and voluntarily in making that choice.” *Id.* (quoting *Dykes v. State*, 444 Md. At 651). The Rule states:

(e) 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 (a)(1) – (4) outlines the court’s duties. It provides:

(a) First Appearance in Court Without Counsel. At the defendant's first appearance in court without counsel, or when the defendant appears in the District Court without counsel, demands a jury trial, and the record does not disclose prior compliance with this section by a judge, the court shall:

- (1) Make certain that the defendant has received a copy of the charging document containing notice as to the right to counsel.*
- (2) Inform the defendant of the right to counsel and of the importance of assistance of counsel.*
- (3) Advise the defendant of the nature of the charges in the charging document, and the allowable penalties, including mandatory penalties, if any.*
- (4) Conduct a waiver inquiry pursuant to section (b) of this Rule if the defendant indicates a desire to waive counsel.*

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

In *Broadwater v. State*, the Maryland Supreme Court opined on whether the requirements of Rule 4-215(a) may be satisfied in a cumulative manner. There, the petitioner was convicted in the circuit court for Frederick County of alcohol related driving charges. On appeal, she argued that the judge “required her to represent herself at trial after erroneously determining that she had waived her right to counsel by inaction.” *Broadwater v. State*, 171 Md. App. 300 (2006), *aff’d*, 401 Md. 175 (2007). Broadwater initially appeared in the District Court in September of 2004, where she was given Rule 4-215 advisements by a District Court judge. *Id.* at 305-06. Broadwater prayed a jury trial and, later, appeared before a circuit court judge for a pretrial hearing where she was not fully advised of her rights. *Id.* at 307. On her third scheduled trial date without counsel,

the circuit court judge ruled that because she was previously “advised of [her] right to an attorney” and she “certainly had . . . time” between her court appearance approximately three months prior and the trial date, to obtain counsel, Broadwater had waived her right to an attorney. *Id.* at 301-02. This Court agreed and found that the Rule 4-215(a) requirements were met because, in combination, the appellant was properly advised during her two appearances in the District and Circuit Courts. *Id.* at 312-13.

The Supreme Court of Maryland granted certiorari and affirmed this Court’s judgment. The Court held that:

[t]he litany of advisements required by Rule 4-215(a) may be given satisfactorily to a defendant where the records show a piecemeal and cumulative rendition of the advisements by successive judges of the District and Circuit Courts in those cases where the District Court had exclusive original jurisdiction of the charges at their inception and the case is transferred to the Circuit Court upon the defendant’s prayer for a trial by jury.

Broadwater v. State, 401 Md. 175, 207 (2007). The Court determined that the circuit court judge did not abuse his discretion in finding that Broadwater waived her right to counsel through inaction.

In *Muhammad v. State*, 177 Md. App. 188 (2007), this Court examined whether a trial judge complied with the requirements of Rule 4-215(a)(1). The petitioner in *Muhammad* was convicted on six counts of first-degree murder. On appeal, he argued that the circuit court judge “failed to comply with Rule 4-215 when he granted his [Petitioner’s] request to discharge the two assistant public defenders who had been representing him so that he could represent himself.” *Id.* at 246. Muhammad asserted that the lower court was

not “in literal compliance with subsection (a)(1)” because the lower court did not “make certain” that he received a copy of the charging document. *Id.* at 248. We held that the judge was not required to impart specific information or advisements to the appellant. We opined that “[s]ubsection (a)(1), unlike the other provisions, involves only the objectively measured question of whether ‘the defendant received a copy of the charging document containing notice as to the right to counsel.’” *Id.* at 249-50. We affirmed Muhammad’s conviction, finding that the requirements of Md. Rule 4-215 had been satisfied. We stated:

Fowlkes v. State, 311 Md. 586, 609 (1988), makes clear, the satisfaction of subsection (a)(1) does not require a judge to make inquiry of, or say anything to, a defendant in a courtroom. *If evidence objectively establishes that the defendant actually received a copy of the charging document, moreover, the fact that the judge failed to ‘make certain’ of that fact is immaterial. The very occurrence of receiving the document speaks for itself and ipso facto satisfies the subsection.*

Muhammad v. State, 177 Md. App. 188, 250. (emphasis added)

In 2010, the Supreme Court of Maryland decided *State v. Camper*, 415 Md. 44, which Appellant contends is instructive. There, the petitioner argued that the trial court erred by failing to comply with Rule 4-215(a)(3). He alleged that the court did not inform him of the potential penalties he may have been subject to, as a subsequent offender, prior to allowing him to discharge his attorney. *Id.* at 47- 48. This Court agreed and reversed the conviction. *Id.* at 53. The Maryland Supreme Court also agreed and affirmed this Court’s judgment. *Id.* at 59.

In so doing, the Supreme Court reiterated that Rule 4-215 was implemented to protect a criminal defendant’s fundamental right to counsel. Citing *Knox v. State*, 404 Md.

76, the Court stated that “[t]he Rule ‘provides an orderly procedure to insure [sic] that each criminal defendant appearing before the court be represented by counsel, or, if he is not, that he be advised of his Sixth Amendment constitutional right to the assistance of counsel, as well as his correlative constitutional right to self-representation.’” *Knox v. State*, 404 Md. at 87 (quoting *Broadwater v. State*, 401 Md. 175, 180). The Supreme Court held that “before any court may find that a defendant has waived the right to counsel, the court must be satisfied that the defendant is informed of the risks of self-representation, and of the punishments which may be imposed.” *Id.* at 88. The Court further stated in *Knox* that Md. Rule 4-215 “exists as a ‘checklist’ that a *judge* must complete before a defendant’s waiver can be considered valid. As such, it mandates strict compliance.” *Id.* at 87 (quoting *Johnson v. State*, 355 Md. 420, 426 (1999)) (emphasis added).

Similar to *Camper*, in *Byre v. State*, the Maryland Supreme Court reversed a lower court’s decision as a result of a trial court’s failure to comply with Rule 4-215(a)(3). In *Byre*, the petitioner received conflicting advisements regarding the penalties he faced on some of his charges. *Byre v. State*, 181 Md. App. 105, 121 (2008), *rev’d*, 410 Md. 623 (2009). Our Court held that reversal was not required because the petitioner was not misadvised about the penalty for the offense that he was convicted of. *Byre*, 181 Md. App. at 122. The Supreme Court disagreed and emphasized that Rule 4-215 errors are not subject to harmless error analysis because the Rule, and specifically subsection (a)(3) of the Rule, “exists to ensure that a defendant is made aware of all pending charges and associated penalties.” *Byre*, 410 Md. at 637. The Court stated that trial courts “must

comply strictly with the requirements of Rule 4-215(a) before accepting a defendant’s waiver of counsel.” *Id.*; *Broadwater*, 401 Md. at 182. “(W)hen a failure to comply with subsection (a)(3) of Rule 4-215 is found, reversible error is the result.” *Byre v. State*, 410 Md. at 641.

In the present case, Appellant was initially seen by a District Court Commissioner who gave him the required advisements and informed him of the charges and the allowable penalties. The Commissioner provided him with a written copy of the advisements as well as his charging document. Appellant’s signature is affixed to the Initial Appearance Report as an affirmation that he received his charging document and that he understood the information provided to him. At his initial appearances in both the District Court and Circuit Court, Appellant was represented by counsel, and he was not advised by any judges as to the charges and/or the potential penalties. On June 5, 2023, when Appellant indicated to the circuit court judge that he wanted to discharge his attorney, the court advised him of his rights to an attorney but did not advise him of the nature of the charges and the potential penalties that he faced.

To be sure, *Broadwater* states that Rule 4-215 advisements can be given in a piecemeal manner. However, here, there is no record of Appellant being advised of the charges and potential penalties by either a District or Circuit Court judge. Subsection (e) of Rule 4-215 clearly states that “[i]f 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 (a)(1) – (4) outlines the court’s duties and it requires that “the court” shall:

- (1) Make certain that the defendant has received a copy of the charging document containing notice as to the right to counsel.*
- (2) Inform the defendant of the right to counsel and of the importance of assistance of counsel.*
- (3) Advise the defendant of the nature of the charges in the charging document, and the allowable penalties, including mandatory penalties, if any.*
- (4) Conduct a waiver inquiry pursuant to section (b) of this Rule if the defendant indicates a desire to waive counsel.*

Md. Rule 4-215(a) (emphasis added). “Rule 4-215 requires that the admonishments be given by a judge, even if they were given previously by the District Court Commissioner.” *Knox*, 404 Md. at 89; *Broadwater*, 401 Md. at 199-200; *see also Johnson*, 355 Md. 420, 455 (1999)) (emphasis added).

As to Appellant’s argument regarding compliance with Rule 4-215 (a)(1), the record contains ample evidence of Appellant’s receipt of his charging document, which included the charges and allowable penalties. We hold, in accordance with *Muhammad*, that subsection (a)(1) was satisfied. “The very occurrence of receiving the document speaks for itself and *ipso facto* satisfies the subsection.” *Muhammad*, 177 Md. App. at 250. In addition, Appellant’s signature is affixed to the Initial Appearance Report, affirming that he received his charging document and understood the information provided to him.

In sum, because neither a District nor Circuit Court judge advised Appellant of the charges that had been filed against him and the allowable penalties, the court failed to comply with the requirements of Rule 4-215(a)(3).

**JUDGMENT OF THE CIRCUIT COURT
FOR HOWARD COUNTY REVERSED;
COSTS TO BE PAID BY HOWARD
COUNTY.**