Circuit Court for Charles County
Case No. C-08-CR-23-000549

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0149

September Term, 2024

AARON BRUCE GARRETT

v.

STATE OF MARYLAND

Nazarian,
Albright,
Kenney, James A. III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: December 22, 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).

In the Circuit Court for Charles County, a jury found Appellant Aaron Bruce Garrett guilty of second-degree assault. The circuit court then sentenced Mr. Garrett to ten years in prison. Mr. Garrett does not challenge how his jury trial was conducted, the manner in which his sentence was imposed, or the sentence itself.[1] Instead, he challenges as error the circuit court's decision, made about two months before the jury trial and over Mr. Garrett's objection, to postpone Mr. Garrett's original trial date in order to determine whether he was competent to stand trial.[2] Mr. Garrett was found to be competent. Here, Mr. Garrett claims that the postponement was an error and asks that we dismiss the charge against him. We discern no error and affirm.

THE ALLEGATION OF MR. GARRETT'S INCOMPETENCY

Mr. Garrett first appeared before the court on September 8, 2023. At that time, his trial was set for January 8, 2024. Mr. Garrett subsequently appeared before the court on

[1] Because Mr. Garrett's appeal does not hinge on the particulars of the jury trial or the sentencing, we summarize the trial evidence. *See Washington v. Maryland*, 180 Md. App. 458, 461 n.2 (2008) ("Appellant has not challenged evidentiary sufficiency. Therefore, we recite only the portions of the trial evidence necessary to provide a context for our discussion of the issues presented.").

The State alleged that Mr. Garrett attempted to rob the victim outside a local firearm store. The victim twisted Mr. Garrett's arm to get it out of the victim's pocket and Mr. Garrett punched and kicked the victim thereafter. Mr. Garrett's view of the incident, offered during his testimony, was that the victim fell to the ground at a distance from Mr. Garrett and that it was that fall that caused the victim's injuries. In imposing a ten-year sentence, the circuit court noted that Mr. Garrett was on probation in another case.

[2] Mr. Garrett's question presented is: "Did the circuit court err in continuing Mr. Garrett's case in order to conduct a competency evaluation?"

October 16, 2023, for a status hearing; November 16, 2023, for a motions hearing; and December 29, 2023, for a pre-trial hearing.

At the December 29, 2023 pretrial hearing, defense counsel informed the State and the court that Mr. Garrett may not be competent to stand trial. While repeatedly interrupting the court to object to anything that could have caused a delay in his jury trial, and shouting profanities,[3] Mr. Garrett represented that he was, in fact, competent, that he personally opposed a postponement, and (all else failing) that he wished to represent himself at trial. The circuit court rejected Mr. Garrett's request to avoid a postponement, ordered a competency evaluation, and ordered that the trial be postponed until after a competency hearing could take place. The circuit court scheduled the competency hearing for February 16, 2024. The court did not take up Mr. Garrett's motion to discharge counsel and represent himself.

On January 17, 2024, Mr. Garrett was examined by the Maryland Department of Health's Pretrial Evaluation Unit. The report written by Dr. Teresa Grant, Ph.D. indicated that her meeting with Mr. Garrett focused on his continuing objection to a competency evaluation, discontentment with his counsel, and the postponement of his trial. The only observations she had regarding Mr. Garrett's competency itself was that he "is not receiving any form of psychiatric treatment. He has not displayed any overt psychiatric

[3] After circuit court overcame repeated interruptions to indicate that he would try to avoid rescheduling Mr. Garrett's jury trial date, he stated that he had to vacate the trial date. Mr. Garrett then shouted, "I told you . . . what the f**k is going on? I'm not trying to f**king (inaudible) this case. I want (inaudible)."

acuity. He previously received services in the past for a mood disorder." On February 9, 2024, at a status hearing a week before the scheduled competency hearing, the circuit court returned to the matter of Mr. Garrett's competency. The circuit court read most of the contents of Dr. Grant's report into the record and found that Mr. Garrett failed to comply with the competency evaluation.

The circuit court next asked Mr. Garrett a series of questions to determine whether he was competent to stand trial. The circuit court asked Mr. Garrett about the charges against him, the roles of his attorney and the others in a trial, the scope and nature of the proceedings, and his rights (including his right to refrain from testifying). Mr. Garrett responded in such a way as to reflect understanding of the proceedings against him. The court then found that Mr. Garrett "[c]ompetent to [s]tand [t]rial."[4] The February 16, 2024 competency hearing was cancelled and trial was scheduled for March 6, 2024.[5]

We will add more facts as necessary.

STANDARD OF REVIEW

"We have held that the granting or denial of a continuance is within the sound discretion of the trial court." *Dudonis v. State*, 9 Md. App. 245, 251 (1970). "For good

[4] The trial court confirmed that its determination was based on its own questioning of Mr. Garrett during that February 9, 2024 hearing, rather than the information provided in Dr. Grant's letter. In so doing, the court reread Section 3-104 and indicated its understanding that "[a]s I read this statute, . . . I don't think I am required to have this evaluation from the health department, and I think the conversation that I had with [Mr. Garrett] just now is evidence on the record."

[5] The circuit court never returned to Mr. Garrett's motion to discharge counsel. Here, Mr. Garrett does not challenge the circuit court's not ruling on that motion.

cause shown, the county administrative judge may grant a change of the trial date in circuit court on motion of a party; or on the initiative of the circuit court." Md. Code,. Proc. ("CP") § 6-103; Md. Rule 4-271(a)(1). The circuit court has complete discretion to grant or deny a continuance on motion of a party or *sua sponte* within 180 days of the defendant's first appearance in that court. That 180-day deadline is known as the "*Hicks* date"[6] and that deadline is further codified in CP § 6-103; *Howard v. State*, 440 Md. 427, 435–36 (2014); and *Tunnell v. State*, 466 Md. 565, 569–71 (2020). Therefore, we review findings of good cause to continue a case within the 180-day *Hicks* date for abuse of discretion. *Morgan v. State*, 299 Md. 480, 488 (1984).

DISCUSSION

I. The circuit court did not err in postponing Mr. Garrett's trial date for the purpose of conducting a competency evaluation.

As we earlier reference, Mr. Garrett does not challenge the circuit court's determination that he was competent to stand trial, nor the admissibility and sufficiency of the evidence to support the jury's verdict, nor the sentence he received. Instead, Mr. Garrett contends that the circuit court abused its discretion in postponing his original jury trial date (January 8, 2024) for the purpose of determining whether he was competent. According to Mr. Garrett, the court erred in concluding that "any" suggestion of his incompetency "automatically" required that he be evaluated for competency and a competency hearing scheduled. Instead, he states that "a suggestion of incompetency

[6] *State v. Hicks*, 285 Md. 310, 320–21 (1979).

does not require a judge to make a fact-finding determination of competency unless it is supported by a proffer of facts that would overcome the presumption of competency. Alternatively, there must be some evidence in the record that creates a *bona fide* doubt of competency." We disagree.

"[A] person accused of committing a crime is presumed competent to stand trial." *Wood v. State,* 436 Md. 276, 285 (2013). Nevertheless, a criminal defendant has the right not to be subjected to trial when the defendant "lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense[.]" *Id.* (citing *Drope v. Missouri*, 420 U.S. 162, 171 (1975)). Section 3-104(a) of Maryland's Criminal Procedure Article "'mandate[s] the precise actions to be taken by a trial court when an accused's competency to stand trial [is] questioned.'" *Wood,* 436 Md. at 286. Section 3-104(a) provides:

> (a) If, before or during a trial, the defendant in a criminal case or a violation of probation proceeding appears to the court to be incompetent to stand trial or the defendant alleges incompetence to stand trial, the court shall determine, on evidence presented on the record, whether the defendant is incompetent to stand trial.

CP § 3-104c(a). "If the defendant's competency is in doubt, whether the question is raised by counsel or the court decides to pursue the matter *sua sponte*, the court must conduct a [competency] hearing . . . ." *Shiflett v. State*, 229 Md. App. 645, 682 (2016).

Compliance with CP § 3-104(a), such as waiting for the results of a competency evaluation, "constitutes good cause to delay [a] trial." *Thompson v. State*, 229 Md. App. 385, 399 (2016). In fact, the judicial proceedings may not continue "until the trial judge

determines that the defendant is competent to stand trial beyond a reasonable doubt." *Kennedy v. State*, 436 Md. 686, 692–93 (2014).

Here, it was Mr. Garrett's counsel that alleged he was incompetent:

> [DEFENSE COUNSEL]: Your Honor, I'm not sure that (inaudible). He understands major procedures but—
>
> [THE COURT]: Oh, you think it's a competency issue?
>
> [DEFENSE COUNSEL]: Yeah, that's an issue.
>
> [THE COURT]: Okay, that's fine, I gotcha. Say no more.
>
> [DEFENSE COUNSEL]: And he is resisting.
>
> [THE COURT]: (Inaudible), okay.
>
> [THE COURT]: Alright, [courtroom clerk], there has been a suggestion of incompetency, and we need to order an evaluation. We will vacate January 8 as a trial date . . . .

In the face of this allegation, the circuit court neither erred nor abused its discretion by postponing Mr. Garrett's jury trial date so that it could undertake the on-the-record, evidence-based competency determination that Section 3-104(a) mandated.

Mr. Garrett's contention that the circuit court should have required a proffer from defense counsel before deciding to schedule a competency hearing is inconsistent with the plain language of Section 3-104(a). Plainly read, Section 3-104(a) does not require that defense counsel's allegation of their client's incompetence be coupled with a proffer. Section 3-104(a) provides that the circuit court "shall" take evidence of the defendant's competence, i.e., hold a competency hearing, "if . . . the defendant alleges incompetence

to stand trial."[7] There is no mention of an additional proffer in Section 3-104(a), and we will not read such a requirement into the statute. *See W. Corr. Inst. v. Geiger,* 371 Md. 125, 141 (2002) (indicating appellate court does not "add or delete language so as to reflect an intent not evidenced in that language" in construing an unambiguous statute (cleaned up)).

Nor could defense counsel have reasonably been expected to make a proffer. If defense counsel's allegation was based on Mr. Garrett's confidential communications, defense counsel may have been prohibited from divulging such communications, including in a proffer to the court. Md. Rule 19-301.6 (pertaining to confidential client communications). Here, defense counsel repeatedly acknowledged that his failure to make a proffer was out of a desire not to "betray" Mr. Garrett's confidences.[8] But even if

[7] Defense counsel may stand in the shoes of the defendant for the purpose of requesting further investigation of the defendant's competence. *Hogan v. State*, 240 Md. App. 470, 493 (2019) (confirming that "defense counsel [is] one of the parties who may request a competency hearing without any regard to whether the client is joining in the request").

[8] At the February 9, 2024, defense counsel indicated that there were additional facts they were unable to proffer without breaching client confidentiality:

> [COURT]: . . . does anyone have an opinion or a thought before I make a finding, of which way it should go? You don't have to, I'm just giving you an opportunity.
>
> [DEFENSE COUNSEL]: Your Honor, remarkably, no. Actually, he seems pretty lucid, and he seems competent as of today.
>
> [COURT]: Right, right.
>
> [DEFENSE COUNSEL]: And my, and again, my concern was, and I didn't betray his confidences at all.

defense counsel could somehow have made a proffer, that proffer would not vitiate what Section 3-104(a) plainly requires: that if the defendant (here, through counsel) alleges incompetence, the circuit court must determine the defendant's competence based on evidence in the record, not on a proffer. *See Peaks v. State*, 419 Md. 239, 253–54 (2011) ("[B]efore the trial may properly commence or continue, given a sufficient allegation of incompetency . . . the trial court is first required to make a determination of the defendant's competency based on evidence presented on the record." (cleaned up)).

Mr. Garrett next argues that the circuit court was required to determine that there was a bona fide doubt about of his competency before scheduling a competency hearing.

[COURT]: Uh-huh.

[DEFENSE COUNSEL]: I said he understands the nature of the proceedings.

[COURT]: Uh-huh.

[DEFENSE COUNSEL]: But there are some issues that's been brought up that I can't betray his confidences.

[COURT]: I understand, I understand.

[DEFENSE COUNSEL]: And he might not fully understand the grasp of the situation.

[COURT]: It could be, that's possible.

[DEFENSE COUNSEL]: And that is why, that is why we are here. I never doubted that he understood what was going on.

[COURT]: Yes.

[DEFENSE COUNSEL]: It's just, again, without betraying his confidences--

[COURT]: I understand.

[DEFENSE COUNSEL]: --I was obligated

[COURT]: You had other concerns?

[DEFENSE COUNSEL]: Yes.

To be sure, when a criminal defendant withdraws his request for a competency evaluation, his withdrawal moots the issue of his competency "so long as the trial judge [does] not have a bona fide doubt that [the defendant is] competent based on evidence presented in the record." *Wood*, 436 Md. at 288.[9] Here, however, the issue of Mr. Garrett's competence was not moot. When the circuit court scheduled a competency hearing and postponed Mr. Garrett's original jury trial date, defense counsel had not withdrawn his allegation of Mr. Garrett's incompetence. Nor did Mr. Garrett's behavior in response to the circuit court's postponement decision suggest that the issue was moot.[10] But even if the circuit court should have overlooked Mr. Garrett's behavior, defense counsel's allegation was enough. "*If[] . . . the defendant alleges incompetence to stand trial, the court shall determine*, on evidence presented on the record, whether the defendant is incompetent to stand trial." CP Section 3-104(a) (emphasis added).

Mr. Garrett also points to a number of Maryland appellate opinions and argues that "no version of Maryland's competency statute has been interpreted as imposing an absolute and automatic right to a competency hearing upon a mere suggestion of incompetency." These cases do not help Mr. Garrett, though, because they were in a

[9] *Wood* is doubly relevant here. The defendant in that case similarly did not comply with a competency evaluation, which the court did not find to be evidence of incompetence. *Id*. at 292.

[10] At the hearing, Mr. Garrett repeatedly interrupted the circuit court with declarations that "nothing's wrong with me" and asked, "what's going on?" Upon being informed that the Court was vacating his original trial date, Mr. Garrett began screaming profanities at the circuit court and expressed further confusion.

different posture. In each, the defendant asserted that he was incompetent, that the trial court somehow underreacted to that incompetence, and that the resulting conviction was invalid. *See Stewart v. State*, 65 Md. App. 372, 375–77 (1985) (defendant asserted incompetence during trial, and challenged trial court's failure to reconsider pretrial determination of competence); *Johnson v. State*, 67 Md. App. 347, 358–60 (1986) (defendant challenged the trial court's decision permitting him to waive counsel, arguing that the trial court failed to conduct a competency hearing prior to permitting defendant to waive counsel); *Roberts v. State*, 361 Md. 346, 349–50 (2000) (defendant challenged conviction because, following defendant's allegation of incompetence, trial court failed to determine defendant's competence based on record evidence); *Wood*, 436 Md. at 280–81, 288 (defendant challenged trial court's determination that defendant was competent after defendant had withdrawn his request for a competency evaluation and no evidence was presented to raise a bona fide doubt as to his competency); *Shiflett*, 229 Md. App. at 681–83 (defendant challenged trial court's mid-trial finding, based on record evidence, that defendant was competent to stand trial); and *Sibug v. State*, 445 Md. 265, 267–68 (2015) (reversing conviction where trial court failed to conduct a competency evaluation of defendant after he was determined to have been incompetent to stand trial on the same charges eight years earlier).

Here, by contrast, the circuit court did not underreact to defense counsel's allegation of Mr. Garrett's incompetence. The circuit court did hold a competency

hearing, did make a determination of Mr. Garrett's competence, did make that determination based on on-the-record evidence, and did find Mr. Garrett competent.

We briefly address Mr. Garrett's contention that he would have preferred to represent himself at his trial on January 8, 2024, the original trial date. Mr. Garrett appears to argue that the circuit court erred by failing to determine whether he had a meritorious reason to discharge defense counsel after counsel alleged Mr. Garrett's incompetence. Mr. Garrett contends that had the court considered his request, (1) defense counsel would have been discharged, and (2) Mr. Garrett could subsequently have withdrawn the request for a determination of his competency. This, he contends, would have prevented the jury trial from having been postponed.

We disagree. Judicial proceedings may not continue "until the trial judge determines that the defendant is competent to stand trial beyond a reasonable doubt." *Kennedy*, 436 Md. at 692–93. This includes the court's consideration of any motion the defendant may make to discharge counsel. *See State v. Renshaw*, 276 Md. 259, 267–68 (1975) (discussing, generally, the requirement that a defendant must "intelligently and competently" invoke their right to proceed without counsel in order to properly waive that Sixth Amendment right). In fact, "[t]he record must show that the defendant is competent to waive the right to counsel" before he may properly do so. *Renshaw*, 276 Md. at 267. "Where the accused cannot waive the right to counsel, or has not effectively done so, the court must take steps to insure that the accused is represented by counsel even if he professes his unwillingness to have a lawyer." *Renshaw*, 276 Md. at 268.

In this case, the circuit court's duty to determine Mr. Garrett's competence was triggered before Mr. Garrett sought to discharge defense counsel. Therefore, we discern no error or abuse of discretion in the circuit court's not considering the merits of Mr. Garrett's discharge motion at the time it was made.

II. The circuit court did not abuse its discretion by postponing this case.

We will not reverse a finding of good cause to postpone a case absent an abuse of discretion. *Morgan*, 299 Md. at 488. The burden is on the appellant to establish that the decision to postpone was an abuse of discretion. *State v. Frazier*, 298 Md. 422, 452 (1984). The circuit court abuses its discretion when its decision is so

> well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable. That kind of distance can arise in a number of ways, among which are that the ruling either does not logically follow from the findings upon which it supposedly rests or has no reasonable relationship to its announced objective.

North v. North, 102 Md. App. 1, 14 (1994).

In this case, the circuit court vacated the original hearing date and postponed Mr. Garrett's jury trial to enable the court to hold the competency hearing that Section 3-104(a) mandated. We see no abuse of discretion in ordering this postponement.

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