

Circuit Court for Baltimore City
Case No. 117039001

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 464

September Term, 2018

ADONIS TALO

v.

STATE OF MARYLAND

Meredith,
Graeff,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 1, 2019

*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.

Adonis Enoch Talo, the appellant, was convicted by a jury sitting in the Circuit Court for Baltimore City of armed robbery, conspiracy to commit armed robbery, use of a firearm in the commission of a crime of violence, and various lesser-included offenses. On appeal, Mr. Talo contends that the court abused its discretion in denying his motion to postpone trial so that he could replace his current legal counsel, a public defender, with a private attorney. He asserts that the court’s ruling on the postponement request violated his right to counsel of his choice. We affirm.

“[T]he decision whether to grant a postponement is within the sound discretion of the trial judge.” *Howard v. State*, 440 Md. 427, 441 (2014) (citation omitted). Accordingly, “[w]e review the decision to deny a motion for continuance for abuse of discretion[,]” which occurs “only where no reasonable person would take the view adopted by the [trial] court . . . or where the court acts without reference to any guiding rules or principles[.]” *Prince v. State*, 216 Md. App. 178, 203-04 (2014) (citations and internal quotation marks omitted).

The Sixth Amendment right to counsel “includes the right of a defendant, who does not require court-appointed counsel, to select the counsel of his or her choosing.” *State v. Goldsberry*, 419 Md. 100, 117-18 (2011). “The right to counsel of choice, however, is qualified.” *Id.* at 118. The Supreme Court has recognized “a trial court’s wide latitude in balancing the right to counsel of choice against the needs of fairness, and against the demands of its calendar[.]” *United States v. Gonzalez-Lopez*, 548 U.S. 140, 152 (2006) (internal citation omitted). More specifically, the Court of Appeals has held that “the right to counsel does not give an accused the unfettered right to discharge current counsel and

demand different counsel shortly before or at trial. . . . A defendant may not manipulate this right so as to frustrate the orderly administration of criminal justice.” *State v. Taylor*, 431 Md. 615, 645 (2013) (citations omitted). *See also Goldsberry*, 419 Md. at 120 (“‘[T]he essential aim’ of the Sixth Amendment is to ‘guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers.’” (quoting *Wheat v. U.S.*, 486 U.S. 153, 159 (1988))).

In *Taylor*, the Court of Appeals held that the trial court did not violate Taylor’s constitutional right to counsel of choice in denying his request for a continuance so that he could replace his court-appointed counsel with private counsel. *Id.* at 646. In so holding, the Court noted that the request for continuance was “brought on the very eve” of trial, that the private attorney declined to represent Taylor unless the court granted a postponement, that the case was a high priority matter with multiple prior postponements, and that Taylor failed to provide a meritorious reason for the substitution. *Id.* at 646.

Here, the court considered comparable factors in exercising its discretion to deny Mr. Talo’s request to postpone his trial date so that he could obtain private counsel. The initial request for continuance was made the morning of the first day of trial. Mr. Talo had not yet retained a private attorney, but needed time to “establish that” with his parents.¹ At

¹ The reasons Mr. Talo gave for wanting to discharge his assigned public defender were that she told him that his fingerprints were found at the scene, but only sent him fingerprint evidence in an unrelated case, and that she had advised him to take the plea offer when he “didn’t do anything wrong.” The court addressed these issues, and ultimately concluded that no meritorious reason for discharging counsel had been stated. Mr. Talo does not challenge that ruling on appeal.

that point, Mr. Talo had been incarcerated for over a year, awaiting trial, which had already been postponed twice. The case, which was four months past the *Hicks* deadline,² had been assigned “priority status” and had been specially set for a three-day trial, precluding the scheduling of any other matter before the “very busy” court. The State had expended “numerous resources” in preparing for trial. The court denied the request, “based [] on the demand of the [c]ourt’s calendar, the resources that have been expended [by] the State[,] and the reasons presented by the defendant.”

When Mr. Talo renewed his motion for continuance on the second day of trial, he provided the name of an attorney he wanted to use, but stated that the attorney was not ready for trial and would need a month to prepare. The court again denied the postponement, citing its previous reasons for doing so and also noting that most of the previous day had been spent selecting a jury, and that the wheelchair-bound victim was present and ready to testify on behalf of the State.

As the Court of Appeals has stated, “[w]hile a defendant’s fundamental right to counsel of choice enjoys ordinarily a strong presumption, the trial court is not required to submit to this qualified constitutional right” where it finds no meritorious reason for the defendant’s request to substitute counsel, and the demands of the court’s calendar do not allow for further delay. *Taylor*, 431 Md. at 646. Under the facts and circumstances here,

² In Maryland, once defense counsel enters his or her appearance in a criminal matter, the defendant must be tried within 180 days unless good cause is demonstrated. *State v. Hicks*, 285 Md. 310, 318 (1979).

we conclude that the court did not abuse its discretion in denying the requested postponement.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**