Circuit Court for Baltimore County
Case No. 03-K-16-000893

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1401

September Term, 2017

JANSON PHILLIP WILLIAMS

v.

STATE OF MARYLAND

Wright,
Kehoe,
Krauser, Peter B.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Krauser, J.

Filed: September 21, 2018

Convicted, by a jury, in the Circuit Court for Baltimore County, of first-degree assault, Janson Phillip Williams, appellant, raises three questions for our review, but only one need be addressed and that is:[1]

> whether the circuit court erred in failing to hold a discharge-of-counsel hearing.

Because the circuit court did so repeatedly err, after Williams, on several different occasions, informed the court that he wished to discharge his counsel, we shall reverse his conviction and remand for further proceedings.

Pre-Trial Proceedings

What follows is a detailed recount, in chronological order, of the relevant pre-trial proceedings, including the three court appearances during which Williams informed the court of his desire to discharge counsel. We believe that this account provides a helpful and perhaps necessary factual context for the issues raised.

[1] In his brief, Williams raises two additional issues: whether the circuit court erred "in failing to ask during voir dire whether any prospective juror would give more weight to the testimony of a police officer than to that of any other witness, merely because the witness was a police officer"; and whether, at sentencing, the circuit court erred "in considering the State's proffer of highly prejudicial allegations in a pending case, over defense counsel's objection, where the information was unreliable and [Williams] was later acquitted of all the charges in that case[.]" We note that, as to the circuit court's failure to give the requested voir dire question concerning the credibility of police witnesses, it did not have the benefit of the Court of Appeals' decision in *Thomas v. State*, 454 Md. 495 (2017), which controls as to that issue. In any event, neither of these issues is likely to arise upon remand.

After several postponements of the trial date, the date on which the trial of Williams and his former girlfriend and co-defendant, Erica Watts, was scheduled to occur was November 3, 2016. But, on that day, Watts entered into a plea agreement with the State, in which she agreed to plead guilty to second-degree assault and testify against Williams.[2] Consequently, a hearing was held on Williams's request for the dismissal of all the charges against him,[3] for the failure to try him within the statutorily mandated time period,[4] and, then, a separate hearing was convened on his request for a postponement of his trial.

At the motion-to-dismiss hearing, Williams's assigned public defender, Kim McGee, Esquire, moved for dismissal, citing a violation of *State v. Hicks*, 285 Md. 310, *on motion for reconsideration*, 285 Md. 334 (1979). The trial judge, who was then the Honorable Mickey Norman, determined that there had been no such violation and denied

[2] Ms. Watts received probation before judgment on the assault charge, and her remaining charges were nol prossed.

[3] Williams faced charges of attempted first-degree murder, first-degree assault, wearing and carrying a dangerous weapon openly with intent to injure, and theft of property with a value less than $1,000.

[4] *State v. Hicks*, 285 Md. 310, *on motion for reconsideration*, 285 Md. 334 (1979), held that if the State fails to bring a criminal case to trial within the statutorily mandated time limit, the charges shall be dismissed, unless the county administrative judge or his designee finds "extraordinary cause" justifying the postponement beyond the mandatory time limit. In 1980, the statute and its implementing rule were amended to require only "good cause" for such a postponement. *Goins v. State*, 293 Md. 97, 99 n.1 (1982). The present-day statute and its enabling rule are Criminal Procedure Article, § 6-103 and Maryland Rule 4-271, respectively.

that motion, whereupon Ms. McGee sought a postponement because, given Ms. Watts's eve-of-trial plea agreement, she now needed additional time to prepare for trial. Judge Norman declared that "the matter need[ed] to go to Judge Alexander," the acting administrative judge.

At the postponement hearing before the Honorable Jan M. Alexander that ensued, Ms. McGee, while acknowledging that her client did "not want this postponement," nonetheless requested a postponement because she did "not have all the evidence that the State" would use against Williams, specifically, Watts's "proffer session"[5] as well as "a couple letters" that Ms. Watts had furnished to the State's Attorney that morning. The State then stated, among other things, that it "would be happy to provide" Ms. Watts's statement to the defense "as soon as it's complete," which it anticipated would be later that day; and, furthermore, that it "would be happy to let" trial counsel inspect the additional evidence that had come into the State's possession earlier that day; and, finally, that the State was "ready for trial."

When Judge Alexander thereupon asked Williams's counsel whether there was "anything he" needed the court to know or whether he was "satisfied with [counsel] speaking on his behalf," his counsel turned and directed that question to Williams, who

[5] This term was an apparent reference to the statement that Ms. Watts was preparing for the State to use in crafting the proffer it would offer at her plea hearing. That statement would be disclosable to the defense under *Brady v. Maryland*, 373 U.S. 83 (1963), as well as Maryland Rule 4-263.

invoked *Hicks* and objected to the postponement. The court responded that there had been no *Hicks* violation. It then explained to Williams that, because his counsel had just received "additional information" that the State intended to introduce at his trial, she had indicated that she would "not be capable of adequately representing" him unless the court granted her request for a postponement of the trial date. Unpersuaded by that explanation, Williams again expressed his wish that the case not be postponed.

Then, after re-informing Williams of the reason his counsel had requested a postponement, Judge Alexander asked Williams whether he wanted Ms. McGee, his counsel, "to go ahead and, basically, try this case blindly not knowing what's going to happen," or whether he, Williams, instead wanted to represent himself. Williams responded: "Well, to be, to be quite frank and honest, I don't believe Ms. McGee is willing to fight for me at all, to be honest. It's been basically an uphill battle, like I'm battling two prosecutors or State's Attorneys as opposed to my defense lawyer." He further informed the court that he "would like to fire Ms. McGee right here on the spot and move to another counsel, if that would be possible," adding that, if he was permitted to fire McGee, he would "agree to the postponement[.]"

Judge Alexander did not then inquire into Williams's reasons for his request or make a determination whether there was "a meritorious reason for [his] request," as required by Rule 4-215(e). Instead, the judge responded: "Well, tell you what, why don't you do this? If we grant the postponement today, if you want to get a new attorney, you don't even need

to fire" Ms. McGee. "[Y]ou can get another attorney [and] as soon as another attorney agrees to represent you, that strikes her appearance right there." Judge Alexander then cautioned Williams that he would not be able to "get another Public Defender" from the Office of the Public Defender, though, if Williams wanted "to hire somebody," he was free to do so.

When Williams next informed the court that he planned to retain private counsel, the court postponed the trial of his case to provide him with the opportunity to do so, but warned Williams that he should not stop "communicating with Ms. McGee," as she would soon "find out what this new evidence is" and then be able to give that information to his new counsel. The hearing then ended.

Following Williams's November 3rd hearing, Jessie Lyons Crawford, Esquire, entered her appearance on Williams' behalf, and, in late January 2017, Williams's assigned public defender, Ms. McGee, moved to strike her appearance. But, two weeks after that motion was made, the newly-retained Crawford also moved to strike her appearance as well, having recently discovered she had a conflict of interest.

On February 13, 2017, a "miscellaneous hearing" was convened before the Honorable Robert Cahill to address Ms. Crawford's then-pending motion to strike her appearance. At that hearing, Ms. Crawford informed the court that she had a conflict of interest involving a witness in Williams's case and would therefore be unable to represent Williams in the instant case. She further advised the court that she had returned the retainer

she had received from Williams's mother who was, according to Crawford, "in the process of paying for a new attorney." After confirming that Williams had consented to Ms. Crawford's request to withdraw, the court granted that request.

Then, noting that trial was scheduled to begin eight days later, and seemingly reluctant to grant another continuance, Judge Cahill turned to Ms. McGee, who was also present, because she was representing Williams in another pending case. In response, McGee confirmed that she had previously represented Williams in the instant case, whereupon Judge Cahill asked Williams whether he had retained another attorney to replace Ms. Crawford. Williams responded that he would reapply to the Office of the Public Defender. Then, after suggesting that he send his application "right to Ms. McGee's attention," the judge, observing that Ms. McGee would require additional time to prepare for trial and that, under the circumstances, "a February 21st trial date" would not be "practical," sought Williams's consent to a postponement. When Williams refused to provide that consent, Judge Cahill rescinded his previous ruling and denied Ms. Crawford's motion to strike her appearance.

On February 21, 2017, the rescheduled trial date of this matter, Judge Cahill held a hearing on Ms. Crawford's request to withdraw and for postponement. At that hearing, Ms. Crawford, appearing again on behalf of Williams, informed the court that, during the prior week, Williams had retained new counsel, Clay Opara, Esquire, to represent him, and, accordingly, Ms. Crawford had supplied Opara with her file on Williams. She further

advised the court that, while Opara had "received and entered a retainer agreement" with Williams, Opara had subsequently returned "the money" and "the file" to Williams's mother and had "never entered . . . his appearance." Ms. Crawford then renewed her motion to strike her appearance because of a conflict of interest and, in the alternative, sought a postponement because she was not ready to proceed to trial that day.

Next, Williams informed that court that he did not now want to go to trial without Mr. Opara, as Opara was, in Williams's words, "supposed to be" present. It "wouldn't be smart," explained Williams, "to try it without [Opara], he's my lawyer." The court subsequently granted Williams another postponement to, as the court put it, "allow Mr. Opara to get in the case and understand the case so he [could] effectively" represent Williams. The court then turned to Williams's mother, who was also present, and asked whether she "expect[ed]" Opara "over here[.]" She replied that she did because she had given him a retainer. Declaring, "That's all I need to know," the court then, after obtaining Williams's written consent to a *Hicks* "waiver," postponed the trial and scheduled a status conference for February 27, 2017, for the purpose of setting a new trial date and granted Ms. Crawford's motion to withdraw her appearance

The February 27th status conference, however, never took place. On February 22, 2017, the court received a letter from Opara in which he explained that, although he had visited Williams at the Baltimore County Detention Center, he had subsequently advised Williams and Williams's mother that he "would not be representing him." Five days later,

the date on which the status conference had been scheduled to take place, the court received a second letter from Opara, in which Opara informed the court that he had seen the presiding judge that morning regarding Williams's case and that his letter was to serve as a "formal notification" that he did not represent Williams.

On March 6, 2017, a status conference was convened, with Judge Cahill presiding. There, Ms. McGee appeared and, once again, informed Judge Cahill that she was appearing on Williams's behalf. The court next advised Williams that Mr. Opara had not received any money from him or his mother. Williams protested that Opara had "received the money" but, upon discovering Williams's desire to go to trial, had given "the money ba[c]k" and had informed Williams that he was not his "attorney anymore." Then, after the State confirmed, with McGee, that June 27th was "convenient" for trial, Williams interjected, advising Judge Cahill that he was "kind of lost here because Ms. McGee is not supposed to be my attorney anymore."

In response, Ms. McGee stated that she had filed a motion to strike her appearance, when Crawford entered her appearance, but she did not know whether that motion had been granted. Consequently, as Williams did not want her to represent him, she "would ask [the judge] to strike [her] appearance, if it hasn't been done already."

Then, once again, Williams told the court that he "absolutely" did not want McGee's assistance, though he did want "the Office of the Public Defender's help[.]" When the court then informed him that he could not "pick who represents" him from the OPD,

Williams asked: "[C]an I fire her now and then get somebody else?" Judge Cahill responded:

> I'm sure she'd love to be fired by you and then you're going to be unrepresented because all this shell game stuff that you're playing along with your mother, you don't have an attorney, okay? Nobody has entered an appearance on your behalf, so if you want, I'm going to give this case a trial date and, and we're going to go to trial on that date. So, if nobody is standing next to you, that's going to be on you. Is that what you want to do?

Williams then told the court that "he'd have an attorney by" trial, but he did not "want Ms. McGee[.]"

The court next suggested that Williams and his mother had told the court "incorrectly" that Mr. Opara had been paid and "was representing [him] in the case," which Opara had "said [was] not true," apparently relying on an off-the-record communication from Mr. Opara. When the court asked Williams whether he was "at the moment . . . without counsel," Williams acknowledged that he was. Then, as the proceeding concluded, Ms. McGee asked Judge Cahill whether the "Public Defender's appearance" had been stricken. The judge simply replied: "I'm not going to do that right now. I, I'm not going to read through a Court file to see whether or not it's already been done."

On March 20, 2017, another status conference was convened before Judge Cahill, at which Ms. McGee appeared, once again, on Williams's behalf. At the beginning of that proceeding, Williams informed the court that he had "put in [an] application to get a new

public defender."[6] Exclaiming, once more, that he could not "tell" the OPD "who gets assigned to [his] case," Judge Cahill asked Williams whether he "underst[ood] this[.]" When Williams replied that he did "not think Ms. McGee" was "qualified or able," the court inquired whether he was "asking [McGee] to strike her appearance in this case[.]" Williams said, "yes."

When Judge Cahill then asked Williams whether he wanted "to fire her," Williams, once again, replied, "yes." The judge then stated that "we've been through this before," adding that, if Williams fired her, he would be "without a lawyer[.]" When Williams asked about his application for a public defender, the court admonished him: "They're not going to assign a different lawyer. You don't get to pick who in the Public Defender's Office they assign to represent you. I know I explained this to you before and if I didn't, I explained it to you again now." The court went on to explain that, if he wished to discharge McGee, it was "required to ask [him] a series of questions about why [he] want[ed] to do that." And, while acknowledging that it could not force Williams to keep McGee "as [his] lawyer," it admonished Williams that, whether he fired her or the court permitted the discharge, he would be "without counsel." If "that's what [he] wanted[,]" he would be, asserted the judge, "happy to conduct that hearing right now." The court then asked: "Is

[6] In is unclear, from the record, what happened to Williams's application for a new public defender. And, when asked, during oral argument before this Court, as to what had occurred with respect to that application, neither counsel knew.

that what you want? You want to fire her right now?" Williams replied, "not right now, no."

Discussion

I.

Maryland Rule 4-215(e) delineates the procedure courts must follow when a defendant expresses a desire to discharge counsel before trial. In so doing, it "protects and administers the fundamental right to the assistance of counsel, along with the attendant right to counsel of one's choice, secured under both the United States Constitution and the Maryland Declaration of Rights." *State v. Graves*, 447 Md. 230, 241 (2016) (citations omitted).

Specifically, it 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.

Rule 4-215(e) is triggered by "any statement," by a defendant, "from which a court could conclude reasonably that the defendant may be inclined to discharge counsel." *Gambrill v. State*, 437 Md. 292, 302 (2014) (quoting *Williams v. State*, 435 Md. 474, 486-87 (2013)). It does "not need to be a talismanic phrase or artfully worded to qualify as a request to discharge." *State v. Campbell*, 385 Md. 616, 632 (2005).

And, once a defendant expresses a desire to discharge counsel, Rule 4-215(e) requires the court to determine whether that request is meritorious. Such a determination "begins with a trial judge inquiring about the reasons underlying a defendant's request to discharge the services of his trial counsel and providing the defendant an opportunity to explain those reasons." *Graves*, 447 Md. at 242 (quoting *Pinkney v. State*, 427 Md. 77, 93 (2012) (citation omitted)). In short, the court must provide the defendant a "forum" to "explain the reasons for his or her request." *State v. Taylor*, 431 Md. 615, 631 (2013).

After providing the defendant with that forum, the court must proceed as follows:

> If the court determines that the request is supported by meritorious reasons, it must (1) permit the discharge; (2) order a continuance, if necessary; and, (3) 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. In contrast, if the court finds that the defendant's reason for discharging his defense counsel is not meritorious, it must first inform 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. Once the defendant is notified thus, the trial judge may proceed by (1) denying the request and, if the defendant rejects the right to represent himself and instead elects to keep the attorney he has, continue the proceedings; (2) permitting the discharge in accordance with the Rule, but require counsel to remain available on a standby basis; or (3) granting the request in accordance with the Rule and relieve counsel of any further obligation.

Graves, 447 Md. at 242-43 (quotations, citations and brackets omitted).

Finally, and of particular relevance to this appeal, the "mandates of Rule 4-215 require strict compliance[,]" and, therefore, "a trial court's departure from the requirements of Rule 4-215 constitutes reversible error." *Pinkney*, 427 Md. at 87-88 (2012). *See also State v. Weddington*, 457 Md. 589, 600-01 (2018) ("A trial court's failure to comply with the requirements of Rule 4-215 constitutes reversible error.") (citation omitted).

II.

Williams claims that during three separate proceedings, respectively, on November 3, 2016, March 6, 2017, and March 20, 2017, he made requests to discharge his counsel, which triggered the circuit court's obligation to conduct a Rule 4-215(e) inquiry, but that the court erroneously failed to do so.

A. November 3, 2016 Postponement Hearing

Williams claims that his remark that he "would like to fire [his counsel] right here on the spot and move to another counsel, if that would be possible," during the November 3rd hearing, was sufficient to trigger the trial court's obligation to conduct a Rule 4-215(e) inquiry but that it nonetheless failed to do so. He further contends that the court misadvised him as to the consequences he faced if the court granted his request to discharge his appointed public defender as his trial counsel.

As noted earlier, a request, under Rule 4-215(e), does "not need to be a talismanic phrase or artfully worded to qualify as a request to discharge, so long as a court could reasonably conclude that" the defendant "sought to discharge his counsel." *Campbell*, *supra*, 385 Md. at 632. Hence, it is quite clear that, given Williams's unambiguous statement that he "would like to fire" McGee, he expressed a desire to discharge counsel sufficient to trigger Rule 4-215(e). *See Gambrill*, 437 Md. at 306-07 (noting that even "an ambiguous statement" may trigger a trial court's obligation to conduct a Rule 4-215(e) inquiry). Indeed, the court appeared to acknowledge the sufficiency of that request when it informed Williams that he did not "even need to fire" McGee, as once Williams obtained substitute counsel, McGee's appearance would be stricken.

Then, after Williams told the court that he wanted to discharge McGee because he believed she was not "willing to fight for [him] at all," the court did not inquire as to why or how he had reached that conclusion. In fact, it did not ask Williams a single question

as to why he wished to discharge his attorney so that it could assess whether his desire to do so was meritorious under Rule 4-215(e). Instead, the court chose to simply warn Williams that "he was not going to get another Public Defender" and that if he discharged Ms. McGee, he would "have to get [his] own attorney," a warning which was misleading and unwarranted because, if the court had conducted an inquiry, and had it determined that Williams's request was meritorious, the court, then, "should have referred" Williams "to the OPD explicitly for the assignment of a new assistant public defender or panel attorney or, if it believed that to be fruitless, acted on its own authority to offer to appoint counsel for him under its inherent authority." *Dykes v. State*, 444 Md. 642, 669 (2015).

Instead, the court appears to have simply concluded, without conducting the inquiry mandated by Rule 4-215(e), that Williams's request was not meritorious, as only when the discharge request is without merit does the court need to:

> [F]irst inform 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. Once the defendant is notified thus, the trial judge may proceed by (1) denying the request and, if the defendant rejects the right to represent himself and instead elects to keep the attorney he has, continue the proceedings; (2) permitting the discharge in accordance with the Rule, but require counsel to remain available on a standby basis; or (3) granting the request in accordance with the Rule and relieve counsel of any further obligation.

Graves, *supra*, 447 Md. at 242-43 (quotations, citations and brackets omitted). In short, the court's advice to Williams that, if it permitted discharge, Williams would be without

counsel, was accurate only if Williams's discharge request was without merit. The court, however, never made such a determination nor provided Williams with the opportunity to explain his reasons for seeking discharge of his counsel and therefore could not have properly made that determination.[7]

Finally, the State maintains that Williams, at that hearing, "backtracked from his initial desire to fire McGee[,]" when he agreed to the postponement, to enable him to retain private counsel. Specifically, the State suggests, in its brief, that Williams, in the State's words, "assur[ed]" the court "that, for the time being, he wished to retain McGee as his attorney." But Williams clearly did not. In fact, when the court told Williams to continue "communicating with Ms. McGee[,]" as there was a "possibility that" Williams would be unable to retain private counsel, and that this course of action was "to [his] benefit," Williams proclaimed, "[a]bsolutely not." And then, the court advised Williams that it was in his "best interest" to let McGee "find out what the evidence" was so that, "even if" McGee was not going to represent him "down the road," that "information" could be

[7] At oral argument, Williams's appellate counsel informed the Court that, had the trial court determined that there was a meritorious reason for Williams's discharge request, it is possible that he would have been assigned a different attorney by the Office, and, in any event, as the Court of Appeals has pointed out, such a finding triggers a trial court's inherent power to appoint counsel for an indigent defendant, which it appears Williams was. *Dykes v. State*, 444 Md. 642, 670 (2015).

"give[n] to [his] new attorney[.]" That course of action, the court assured Williams, would "work[] to" his "benefit[.]" Williams only then responded "yes."

But Williams, at no time during that hearing, expressly or even impliedly indicated to the court that he no longer wished to discharge McGee. Rather, the court neglected to conduct an inquiry, following Williams's unambiguous request to "fire" McGee, and elicited, at most, a conditional delay of that discharge, pending the retention of new counsel. That delay had no effect on the pendency of Williams's request to discharge counsel, nor did it dispel the court's obligation to comply with the mandates of Rule 4-215(e). As the Court of Appeals observed in *Williams v. State*, *supra*, 435 Md. 474:

> 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.

Id. at 491.

Nor do the circumstances of the November 3, 2016 hearing bear any resemblance to what occurred in *Holt v. State*, 236 Md. App. 604 (2018), as the State claims. In *Holt*, this Court determined that, even though Holt had requested the right to discharge his counsel, the trial court did not violate Rule 4-215(e) by failing to conduct an inquiry into Holt's reasons for that request, because his counsel later informed the court that Holt had expressly withdrawn it. Specifically, Holt's counsel informed the court that, the day before

trial, he had "talked to [his] client [that] morning about this matter" and that Holt wanted him to represent him at trial. *Id.* at 617. Consequently, this Court held that since "the last word to the trial court indicated that any desire of appellant to discharge counsel had passed[,]" the trial court had not violated Rule 4-215(e). *Id.* at 619 (quotations omitted). Here, there was no such statement made by Williams or his counsel or any indication at all that Williams wished to withdraw his discharge request.

However, the court, at the conclusion of the November 3rd hearing, arguably granted Williams the principal relief which he had requested, namely, a continuance to obtain new counsel. But it then, unfortunately, misinformed him of the consequences of discharging his counsel, as we previously explained. In any event, even if we were to conclude that any error committed by the court in failing to conduct an inquiry was nullified by the relief it ultimately granted, the court did not fulfil its obligations under Rule 4-215(e) during either of Williams's subsequent court appearances, on March 6th and 20th, when he once again requested the right to fire his counsel, as shall become readily apparent as we proceed with our review of those proceedings.

B. March 6, 2017 Status Conference

Williams claims that his remarks during the March 6th status conference that he "absolutely" did not want the assistance of his appointed public defender, as well as his question to the court, "[C]an I fire her now and then get somebody else?", were sufficient

to trigger the trial court's obligation to conduct a Rule 4-215(e) inquiry, and its failure to do so constituted error.

The State counters that Williams's purported discharge request failed to trigger Rule 4-215(e), as "Williams did not try to fire McGee because he did not believe that, at that point in time, she still represented him." The State further claims that, "[e]ven if Rule 4-215(e) was triggered, it was conditioned on McGee representing Williams." That is, the court, according to the State, "was not able to resolve the question of whether McGee still represented Williams," and that "determination," which the State claims the court held sub curia, "was a prerequisite to [the court] finding that Rule 4-215(e) applied."

The premise on which the State's arguments are based, however, finds no support in the record. To begin with, the State, in effect, asks us to ignore that McGee spent that hearing alongside Williams, acting as his attorney, that her appearance had never been stricken, and that McGee informed the court, at the beginning of that hearing, that if her appearance had been stricken "at this point," it should not be. The court, in response, asked McGee if the Office of the Public Defender was "prepared to enter an appearance on behalf of Mr. Williams in this case[,]" to which McGee informed the court that it "would if it's not already in there[,]" and the court accepted that representation.

Hence, when Williams's request was made, it plainly triggered Rule 4-215(e), as McGee was present as his counsel, given that her appearance had never been stricken and that she had been accepted as such by the court. Therefore, the premise of the State's

arguments—that it was unclear whether McGee was representing Williams—and, therefore, that Williams either failed to trigger Rule 4-215(e), or that any trigger could not have applied to McGee, is undermined by the record.

Moreover, the circuit court, during the March 6th hearing, having failed to conduct the required Rule 4-215(e) inquiry, then repeated the misleading advisement it had given Williams during the November 3rd hearing but without the saving grace of a continuance:

> Nobody has entered an appearance on your behalf, so if you want, I'm going to give this case a trial date and, and we're going to go to trial on that date. So, if nobody is standing next to you, that's going to be on you. Is that what you want to do?

Presented with this Hobson's choice, Williams replied that "he'd have an attorney by" trial, but he did not "want Ms. McGee[.]" Then, near the conclusion of the hearing, when asked to confirm whether McGee's appearance had not been stricken, the court refused to do so, exclaiming, "I'm not going to do that right now. I, I'm not going to read through a Court file to see whether or not it's already been done." Under these circumstances, the court plainly violated Rule 4-215.

C. March 20, 2017 Status Conference

Williams claims that his affirmative response to the court's query, during the March 20th status conference, as to whether he wanted to "fire" his counsel, was sufficient to trigger the court's obligation to conduct a Rule 4-215(e) inquiry but that it failed to do so.

The State counters that Williams provided an "unequivocal assurance that he wanted to continue with McGee []as his defense counsel," and, therefore, "there was not a reasonable basis for the circuit court to conclude that Williams wanted to discharge McGee. Accordingly . . . no further inquiry was required."

While it is true that, at the March 20th status conference, Williams, as the State points out, agreed to delay implementation of his discharge request, he only did so after the court, at the preceding November 3rd hearing and the March 6th status conference, had denied him a forum to explain the reasons for his discharge request. Moreover, the court, during the course of the March 20th hearing, once again denied Williams an opportunity to explain why he wished to discharge McGee, and Williams only agreed to a delay of that discharge request after the court, as it had done twice before, provided Williams misleading advice, informing him that, if it permitted the discharge, Williams was "going to be without counsel."

In any event, by not providing Williams a forum to explain the reasons for his discharge request, when he had repeatedly expressed a wish to discharge McGee as his counsel at this and earlier proceedings, the court, once again, failed to adequately consider Williams's discharge request, thereby impermissibly moldering Williams's present and previously persistent discharge desire into a past desire. And that violated the mandates of Rule 4-215(e). *See Williams v. State*, supra, 435 Md. at 491.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY VACATED. CASE REMANDED FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY BALTIMORE COUNTY.