Circuit Court for Dorchester County
Case No. C-09-CR-21-000041

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1882

September Term, 2021

CHEVILLA A. CRENSHAW

v.

STATE OF MARYLAND

Kehoe,
Beachley,
Shaw,

JJ.

Opinion by Shaw, J.

Filed: December 1, 2022

This is an appeal from the denial of the request to discharge counsel by the Circuit Court for Dorchester County. In March 2021, Appellant Chevilla Crenshaw was charged, by criminal information, with various counts, in connection with a bank robbery. Defense counsel entered his appearance and simultaneously filed motions for a bond review, discovery, and a demand for a speedy trial. He then represented her at several hearings, including a bond review, status, and motions hearing. On October 5, 2021, a week prior to trial, during a pretrial conference, Appellant sought to discharge him. Following inquiry, the court denied the request, finding no meritorious reason. Appellant was subsequently tried and convicted by a jury. She timely appealed and presents one question for our review:

1. Whether the trial court erred in denying Ms. Crenshaw's pretrial motion to discharge counsel pursuant to Maryland Rule 4-215?

We affirm and explain.

BACKGROUND

The charges against Appellant alleged that she and several others committed a bank robbery on December 22, 2020 in Cambridge, Maryland. Appellant was identified as the person who drove individuals to the bank and the individual who provided others with their roles to execute the robbery. Approximately $241,000 was taken from the bank.

A criminal information was filed in the Circuit Court for Dorchester County on March 1, 2021, charging her with armed robbery, conspiracy to commit armed robbery, multiple counts of first- and second-degree assault, conspiracy to commit assault, reckless endangerment, theft, and firearm offenses. On March 3, 2021, defense counsel entered his

appearance and filed requests for (1) a bond review; (2) discovery; (3) a speedy trial; and (4) an omnibus motion pursuant to Rule 4-252. Defense counsel later filed a demand for a bill of particulars.

On August 9, 2021, both the State and defense were present for a status hearing and Appellant appeared remotely via Zoom. Defense counsel acknowledged that the State was providing discovery, which in turn was being provided to Appellant. Defense counsel indicated they were still waiting for a response to Appellant's demand for a bill of particulars. On August 20, 2021, the court held a motions hearing, where Appellant's attorney argued that she should be released on bail to alleviate logistical difficulties in reviewing discovery material via Zoom. The court denied the request.

On October 5, 2021, the court held a pretrial conference. Defense counsel stated that Appellant did not believe he was prepared for trial and that she wanted to discharge him. In response to the court's inquiry, Appellant stated, "I just feel real uncomfortable right now knowing that he hasn't even been in front of you before." The judge[1] stated, "[w]ell, that doesn't mean much. He practices as I understand it." The judge then explained that Appellant needed to provide a meritorious reason for wanting to discharge defense counsel, and that she had not done so. The judge stated, "[t]he fact that you don't feel right is not good enough. Because everything that I see in terms of what's been filed looks like he's very prepared to represent you at trial."

Defense counsel interjected and explained:

[1] Judge Thomas Ross is a retired senior judge from Queen Anne's County.

> We agree on the theory of the case; other aspects we don't. And that the way that I cross-examine or intend to cross-examine certain witnesses, she does not agree with, but I believe it's going to be in the best strategy for the overall theory of the case. . . . in my opinion of doing this for over a decade now. And she sees it differently.

Defense counsel also later stated:

> Nonetheless, I do feel that I am in a position ready to proceed to trial. She has been provided a copy of all the paper discovery, it fills three or four binders. The Warden has given her a copy. There's nothing that she's asked for a new copy of. But I have not been able to give her the electronic media because I don't see how she's going to be able to view it while incarcerated.

Prior to taking a recess to allow Appellant to have a private discussion with her counsel, the judge read Rule 4-215 to her, stating:

> 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.

When the hearing resumed, defense counsel indicated that Appellant was seeking a continuance of the trial date and would waive her right to a speedy trial. Defense counsel articulated three grounds in support of the request for a continuance: (1) Appellant's request to have co-defendants called as defense witnesses; (2) the need to access various cell phones seized in order to extract evidence for trial; and (3) the need to subpoena an officer and forensic examiner regarding handwriting found on a document recovered during the search warrant. Defense counsel concluded:

> So for those reasons, that is why my client is asking for me to seek a continuance at this time. In light of that she is willing to waive her right to a speedy trial. And I guess at that point makes the issue, if the Court was to grant that, the termination of me moot. Or she may still wish to fire me on the record even after the continuance, if it was to be granted, based on my

> representations today. I'll leave that to her and I'd ask the Court to ask her that, if she still wants me to proceed.

The State opposed the request for a continuance and commented that the co-defendants had not been sentenced and may, therefore, be unavailable for testimony, no evidence could be extracted from the cell phones seized and the handwriting found on the notepad was not Appellant's.

The judge ruled:

> Frankly, I don't find anything compelling about where we stand right now or that the case should be postponed because it's clear that everything has been turned over, reviewed. There's no guarantee that anyone is going to testify and if you wanted to call a co-defendant you can still do that. Whether or not they're going to testify now or whether they would testify later, we don't know the answer to that question anyway.
>
> With respect to the other matters, it seems to me you've had that information for a considerable period of time. You could have gone in that direction and gotten the information you wanted from those cell phones, any of that previously.
>
> And consequently, I think we're at a stage where we're pretrial with a week to go before trial and I'm not inclined to grant her request to postpone the case.

The judge then asked Appellant if there was anything further on the discharge of counsel matter, to which she replied, "I don't have nothing further." The judge ruled:

> . . . You have very competent counsel already and I find there's no meritorious reason to discharge him as counsel that you've given me. So consequently, that request is denied or at this point perhaps withdrawn because you'd rather have him as counsel than represent yourself[.]

Appellant was subsequently convicted by a jury. She noted this timely appeal.

STANDARD OF REVIEW

The Court of Appeals has determined that the mandates of Rule 4-215 require strict compliance. *Broadwater v. State*, 401 Md. 175, 182 (2007). "In addressing the circuit court's compliance with Md. Rule 4-215(e), we apply a *de novo* standard of review." *Davis v. Slater*, 383 Md. 599, 604 (2004). "For purposes of our review of the trial judge's interpretation and application of Maryland Rule 4-215(e), we focus primarily on those facts relevant to Petitioner's request to discharge his trial counsel." *Pinkney v. State*, 427 Md. 77, 82 (2012). "[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." *State v. Taylor*, 431 Md. 615, 630 (2013). 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." *Evans v. State*, 396 Md. 256, 277 (2006).

DISCUSSION

"The right to counsel is guaranteed by the Sixth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights." *Weathers v. State*, 231 Md. App. 112, 130 (2016) (citing *Gideon v. Wainwright*, 372 U.S. 335, 342-43 (1963)). "In addition, a defendant in a criminal prosecution also has a constitutional right to have effective assistance of counsel and the corresponding right to reject that assistance and represent himself." *Powell v. Alabama*, 287 U.S. 45, 71 (1932). "The right to counsel 'guarantee[s] an effective advocate for each criminal defendant rather than . . . ensur[ing] that a defendant will inexorably be represented by the lawyer whom he prefers.'" *Dykes v. State*, 444 Md. 642, 648 (2015) (quoting *Alexis v. State*, 437 Md. 457, 475 (2014).

While the right to counsel entitles the defendant to the effective assistance of counsel, it does not guarantee "a meaningful attorney-client relationship." *Morris v. Slappy*, 461 U.S. 1, 14 (1983). Nor does this right "give an accused an unfettered right to discharge current counsel and demand different counsel shortly before or at trial." *Fowlkes v. State*, 311 Md. 586, 605 (1988). "[A] defendant may not manipulate this right so as to frustrate the orderly administration of criminal justice." *Id.* Trial courts are vested with "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. Gonzales-Lopez*, 548 U.S. 140, 152 (2006). "Consequently, . . . unless the defendant can show a meritorious reason for the discharge of current counsel, the appointment of substitute counsel is simply not an option available to the defendant." *Fowlkes*, 311 Md. at 605-06.

Maryland Rule 4-215 is designed to implement and protect the fundamental right to counsel. *State v. Walker*, 417 Md. 589, 598 (2011). The Rule provides:

> 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.

In *Dykes v. State*, the Court of Appeals outlined the following procedure a court should undertake when there is a request to discharge counsel:

> (1) The defendant explains the reason(s) for discharging counsel[.] While the rule refers to an explanation by the defendant, the court may inquire of both the defendant and the current defense counsel as to their perceptions of the reasons and need for discharge of current defense counsel.
>
> (2) The court determines whether the reason(s) are meritorious[.] The rule does not define "meritorious." This Court has equated the term with "good cause." This determination—whether there is "good cause" for discharge of counsel—is an indispensable part of subsection (e) and controls what happens in the third step.
>
> (3) The court advises the defendant and takes other action[.] The court may then take certain actions, accompanied by appropriate advice to the defendant, depending on whether it found good cause for discharge of counsel—i.e., a meritorious reason.

Dykes, 444 Md. at 652 (citations and quotation marks omitted).

Appellant argues the judge, in the present case, failed to make necessary inquiries, failed to consider the information it received and therefore failed to comply with the Rule. She contends the judge was obligated to ask additional questions before determining whether her stated reasons for wanting to discharge defense counsel were meritorious. The State argues the judge did not err and the judge gave Appellant numerous opportunities to articulate her reasons. We agree with the State.

The judge, when advised of Appellant's desire to discharge counsel, inquired as to her reasons and allowed her, without limitation to address the court regarding her dissatisfaction with counsel. Appellant responded by saying, "I just feel real uncomfortable right now knowing that he hasn't even been in front of [the trial judge] before," and "he has said in writing certain circumstances wherein, you know, the things that he did with the case if I didn't like it that I could fire him[.]" The judge then expressed

that not "feel[ing] right" was not "good enough," and he informed her, "you have to have a meritorious reason for discharging your lawyer and up to now I haven't heard that."

The judge heard from her attorney, who provided his understanding of her reasons, stating that he and Appellant "agree on the theory of the case," but disagreed on discrete points such as the best approach to cross-examine certain witnesses. Defense counsel explained that Appellant encountered some difficulties reviewing video-based discovery due to COVID-related lockdowns at the jail but has since reviewed everything. Defense counsel ended by saying, "I do feel that I am in a position ready to proceed to trial." The judge then gave Appellant an opportunity to address those issues, and she stated, "we still haven't gone over certain things and it is a hindrance being locked up[.]"

The judge then gave Appellant an opportunity to speak with her attorney privately and informed her of the specific requirements of the Rule. When the proceedings resumed, Appellant offered no further comments in relation to her request to discharge counsel. Instead, defense counsel made a motion for postponement, which the court denied. The judge afforded Appellant a final opportunity to speak on her desire to discharge counsel, to which she replied, "I don't have nothing further."

On the record before us, we hold the judge fully complied with the requirements of Rule 4-215(e) and the *Dykes* three step process, and there was no basis for the court to make further inquiries. The court did not err. While a "record must 'be sufficient to reflect that the court actually considered th[e] reasons' given by the defendant[,]" the court is not required to continually inquire into the defendant's request. *Pinkney*, 427 Md. at 93 (quoting *Moore v. State*, 331 Md. 179, 186 (1993)). In *Hargett v. State*, we stated, "[i]f the

defendant states 'no information that require[s] follow up,' the court is not required to inquire further." *Hargett*, 248 Md. App. 492, 509 (2020) (quoting *Webb v. State*, 144 Md. App. 729, 747 (2002)). The Court of Appeals, in *Taylor*, 431 Md. at 641, held:

> A trial judge has no affirmative duty to rehabilitate a defendant's expression of why he or she may desire to discharge his or her counsel; rather, the trial judge has a duty to listen, recognize that he or she must exercise discretion in determining whether the defendant's explained reasons are meritorious, and make a rational decision.

Appellant next claims that the court abused its discretion in finding that Appellant did not assert a meritorious reason. She contends her attorney's inadequate communication "left her in the dark about the evidence in her case" and impaired her ability to understand the evidence and to make informed decisions. Appellant asserts there was a clear breakdown in communication and she and her attorney were at odds about her defense. Appellant contends she had no meaningful contact with her attorney "up to the week before she requested to discharge him." The State argues the court did not abuse its discretion.

We examine a court's determination as to whether a defendant's reasons for wanting to discharge counsel are "meritorious" under the abuse of discretion standard. *Taylor*, 321 Md. at 630. Meritorious is defined by the Oxford English Dictionary as "having merits, likely to succeed on the merits of the case" and has been equated with "good cause." *Dykes*, 444 Md. at 652 (citing *Gonzales*, 408 Md. at 531-33). An abuse of discretion occurs if a court's decision is "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *North v. North*, 102 Md. App. 1, 14 (1994).

During the proceedings here, both Appellant and her attorney relayed the substance of their communications regarding the case, and it was clear that there was not a total lack of communication. Indeed, there were some access limitations because of COVID protocols and in-person meetings were limited, but communications were not prohibited and clearly occurred. Defense counsel described his interactions and communications with Appellant and Appellant also relayed her interactions. To be sure, there were disagreements, but they were mainly about whether to call certain witnesses, how to cross-examine those witnesses, and which discovery was relevant to the defense. The record also reflects that Appellant was "provided a copy of all the paper discovery," filling "three or four binders," and was able to watch everything from the "board of education video" to "co-defendant interviews" with defense counsel either through Zoom or at the jail together. Defense counsel scheduled two- to three-hour-long Zoom sessions a couple days a week, met with her in person multiple times at the jail to review additional discovery, and continued to go visit her at the jail prior to the pretrial conference.

This Court noted, in *Cousins v. State*, that "[a] disagreement regarding legal strategy is not [] a meritorious reason to discharge counsel." *Cousins*, 231 Md. App. 417, 443 (2017). Likewise, disagreements regarding how to cross-examine witnesses are not meritorious reasons. *See Bey v. State*, 228 Md. App. 521, 534 (2016) (holding that the court did not abuse discretion in denying implied request to discharge counsel based on disagreement about whether to cross-examine victim). While we agree that a "complete breakdown of communication" is a relevant factor in determining whether counsel should

be discharged, that did not occur here. *State v. Brown*, 342 Md. 404, 415 (1996) (quoting *McKee v. Harris*, 649 F.2d 927, 931 (2d Cir. 1981), *cert. denied*, 456 U.S. 917 (1982)).

Under the circumstances in the present case, we hold the court soundly exercised its discretion in finding the reasons given by Appellant were not meritorious. The court's decision was based on the statements presented by both Appellant and her attorney and its decision was not beyond the fringe of what is minimally acceptable.

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