

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2571

September Term, 2016

JAMIE L. MEYERS

v.

STATE OF MARYLAND

Woodward, C.J.,
Eyler, Deborah S.,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 9, 2018

*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.

Jamie L. Meyers, appellant, was convicted of second-degree assault following a bench trial in the Circuit Court for Anne Arundel County, in which he proceeded *pro se*.¹ The court imposed a suspended sentence of eighteen months, in favor of eighteen months of supervised probation. Appellant’s sole contention on appeal is that the court violated Rule 4-215 and deprived him of his right to counsel. For the reasons stated below, we disagree and affirm.

Appellant first appeared before the District Court of Maryland for Anne Arundel County on December 10, 2015, where he was not represented. That hearing was not recorded. Appellant next appeared before the District Court on March 28, 2016, where he was, again, unrepresented. At that proceeding, appellant stated that he wanted a postponement so he could hire an attorney, which the court granted after advising appellant of his right to representation. On June 28, 2016, appellant appeared before the District Court, unrepresented, and prayed a jury trial. The court again advised appellant of his right to counsel.

On July 20, 2016, appellant appeared before the circuit court, unrepresented. The court advised appellant to obtain counsel and cautioned him that if he appeared again without counsel, the court could find that he waived his right to counsel. The court also ensured that appellant received a copy of the charging document. Additionally, the court referred appellant to the Office of the Public Defender and postponed trial to October 5,

¹ Appellant notes that his name is occasionally spelled “Myers” in the transcripts of the proceedings below.

2016. At that proceeding, appellant appeared again without counsel. The court granted appellant's request for a postponement so that he could obtain counsel.

On January 11, 2017, appellant appeared before the circuit court, unrepresented.

The following colloquy ensued:

THE COURT: All right, good. It's my understanding that you are here for a bench trial –

THE DEFENDANT: That's –

THE COURT: – is that correct? All right, and have you done the – has he done the waiver of jury trial yet?

[PROSECUTOR]: No, Your Honor. We have not done anything.

THE COURT: Okay. All right. Let's do that. Can you state your full name on the record for me?

THE DEFENDANT: Jamie Lee Meyers.

THE COURT: All right. And how old are you, Mr. Meyers?

THE DEFENDANT: Thirty.

THE COURT: Can you read and write the English language?

THE DEFENDANT: Yes, ma'am.

THE COURT: You understand what's going on here today?

THE DEFENDANT: Yes, ma'am.

THE COURT: Currently under the influence of any alcohol, drugs, medications?

THE DEFENDANT: No, ma'am.

THE COURT: Ever been under the care of a psychiatrist or psychologist?

THE DEFENDANT: No, ma'am.

THE COURT: All right. You currently under the influence of any – I asked that, alcohol, drugs, medication today. You understand that you are here without counsel?

THE DEFENDANT: Yes, ma'am.

THE COURT: All right. I'm assuming someone has already made a – a decision that you've waived your right to counsel either through inaction or on your own, correct? You're choosing to go forward without counsel?

THE DEFENDANT: Yes, ma'am.

The court then inquired as to appellant's desire to waive a jury trial and cautioned appellant that it would treat him like any other represented party as to objections and the presentation of evidence. Appellant acknowledged the court's statements.

A bench trial then followed, after which the court found appellant guilty of second-degree assault.

On appeal, appellant contends that the court failed to abide by the provisions of Rule 4-215 and violated his Sixth Amendment right to counsel. Appellant maintains that Rule 4-215 provides a mandatory checklist for courts to complete when faced with an unrepresented defendant, and the court failed "to adhere in any respect to the rule." Specifically, appellant argues that the court made no finding that appellant was knowingly and voluntarily waiving his right to counsel.

Preliminarily, we note that appellant has cited both sections (b) and (d) of Rule 4-215. The latter section is inapplicable, however, because appellant expressly stated that he

was proceeding without counsel.² Moreover, although the court had cautioned appellant at prior proceedings that if he appeared without counsel at a later proceeding, the court could find that he had waived his right to counsel through inaction, the court never made such a finding. Accordingly, we assess whether the court complied with the requirements of section (b) of the rule.³

Rule 4-215(b) provides, in part: “If a defendant who is not represented by counsel indicates a desire to waive counsel, the court may not accept the waiver until after an examination of the defendant on the record conducted by the court, the State’s Attorney, or both, the court determines and announces on the record that the defendant is knowingly and voluntarily waiving the right to counsel.” We review *de novo* whether the circuit court complied with the rule. *See State v. Graves*, 447 Md. 230, 240 (2016).

Notably, Rule 4-215(b) requires compliance with section (a) of the rule. The court, therefore, was required to ensure that appellant had received a copy of the charging document containing notice of the right to counsel, to advise appellant of the right to counsel, and to inform appellant of the nature of the charges, among other things. *See* Rule 4-215(a). A review of the proceedings in the district and circuit courts indicates that the

² Rule 4-215(d) provides, in part: “If a defendant appears in circuit court without counsel on the date set for hearing or trial, indicates a desire to have counsel, and the record shows compliance with section (a) of this Rule, either in a previous appearance in the circuit court or in an appearance in the District Court in a case in which the defendant demanded a jury trial, the court shall permit the defendant to explain the appearance without counsel.” Pursuant to this rule, a court may find that a defendant waived the right to counsel by inaction.

³ As such, appellant’s citations to legal authority interpreting Rule 4-215(d) are inapposite.

courts complied with the provisions of Rule 4-215(a), albeit in piecemeal fashion. *See Brye v. State*, 410 Md. 623, 637 (2009) (noting that Rule 4-215(a) “advisements may be given properly to a defendant by different judges of the same court on a piecemeal basis”).

Here, appellant’s only contention is that the circuit court failed to announce on the record that he was knowingly and voluntarily waiving his right to counsel, as required by Rule 4-215(b). The State concedes that the court did not make such an announcement. The State contends, however, that this issue has not been preserved because appellant failed to object. Indeed, in *State v. Westray*, 444 Md. 672, 686 (2015), the Court of Appeals held that Westray had not made a contemporaneous objection to the circuit court’s failure to announce on the record that his waiver of counsel was knowing and voluntary, and, therefore, he did not preserve the issue for appeal. Because appellant failed to note a contemporaneous objection to the court’s lack of an announcement on the record as to his waiver of counsel, the issue is not preserved.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**