

Circuit Court for Frederick County
Case No. C-10-CR-20-000354

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1759

September Term, 2021

THOMAS ANDREW ZINN

v.

STATE OF MARYLAND

Graeff,
Zic,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 30, 2022

*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.

Convicted by a jury in the Circuit Court for Frederick County of second degree assault and fourth degree sexual offense, Thomas Andrew Zinn, appellant, presents for our review a single issue: whether the court complied with Rule 4-215. For the reasons that follow, we shall affirm the judgments of the circuit court.

In July 2020, Mr. Zinn was charged by indictment. In August 2020, defense counsel entered her appearance. Defense counsel subsequently appeared with Mr. Zinn for four pretrial conferences and a hearing on motions.

On August 18, 2021, Mr. Zinn, *pro se*, filed with the court a letter in which he stated:

I am scheduled for a jury trial on Aug. 31 – Sept. 2.

As part of my defense, I have asked my Assistant Public Defenders to obtain the victim's medical records.

To date, I have asked 4x, with a response of "Do you know how hard they are to get?"

According to research, I must bring up this point now in order for it to be brought up in any kind of post-conviction or appeal.

I have enclosed letters concerning this matter.

One of the "enclosed letters" was from Mr. Zinn to defense counsel, in which Mr. Zinn stated:

I have been reading up on trials and I believe it says that if I did not make an argument about obtaining [the victim's] personal doctor records about her head, neck, and back trauma she suffered in a car accident, I would not be able to bring it up at a later date.

As I have been incarcerated for over 18 months and this would be the 4th time I have mentioned it, I feel we have had ample time.

Not to mention, these records would show that her skin disorder appears on different areas of her body.

The other “enclosed letter” was from Mr. Zinn to “Brian L. Zavin,”¹ in which Mr. Zinn stated:

I am currently scheduled for trial on Aug. 25-26 at 9:00AM, and again on Aug. 31 – Sept. 2.

Through out [sic] the last 18 months, I have asked for personal medical records for [the victim] with no response. I did recieve [sic] the words “They are too hard to obtain.” These records would show that I am innocent. These records are extremely important.

I have also been reading about the fact if I don’t argue my point now, it would be no good on an appeal.

On August 31, 2021, defense counsel appeared with Mr. Zinn for trial. The State moved for postponement, and the court granted the motion. On October 25, 2021, defense counsel appeared with Mr. Zinn for a hearing on motions. Defense counsel subsequently appeared with Mr. Zinn for and throughout trial and sentencing.

Mr. Zinn now contends that his letters to the court, defense counsel, and Mr. Zavin constituted “enough indications that [Mr. Zinn] was dissatisfied and found fault with his attorney that the trial court was obligated to conduct an inquiry under” Rule 4-215(e) (“[i]f 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”). (Quotations omitted.) *Wood v. State*, 209 Md. App. 246 (2012), is instructive. Prior to his trial on charges of first degree murder and related offenses, Mr. Wood “wrote a letter to the circuit court” in which he stated that he had not received discovery, and was “having

¹In his brief, Mr. Zinn states that this individual is the same Brian Zavin who is Chief Attorney of the Appellate Division of the Office of the Public Defender.

problems with” his defense counsel. *Id.* at 253-55. At a subsequent pretrial hearing, Mr. Wood told the court that he had “not been issued discovery,” and did not think that defense counsel was “effectively representing” him. *Id.* at 255. The court advised Mr. Wood to discuss the matters further with defense counsel. *Id.* at 256. Defense counsel “continued to represent [Mr. Wood] throughout pretrial hearings . . . , the trial, . . . and at sentencing,” and he “did not raise an issue as to [defense counsel’s] representation again.” *Id.* at 257.

On appeal, Mr. Wood contended “that at the pretrial conference . . . , the circuit court failed to comply with . . . Rule 4-215(e) by not: (1) inquiring as to whether he wanted to discharge his counsel; (2) eliciting and considering an explanation for his dissatisfaction with his counsel; and (3) determining whether the reasons were meritorious, and thereby warranting discharge.” *Wood*, 209 Md. App. at 278. Rejecting the contention, we stated:

All of [Mr. Wood’s] statements about [defense counsel] were rooted in his request to obtain a copy of the State’s discovery. Although [Mr. Wood] is correct that nothing within Maryland Rule 4-215(e) requires a defendant to renew the request to discharge counsel at trial, the Rule clearly requires that to trigger its application a request to discharge must be made. In expressing a concern over the lack of discovery, [Mr. Wood] did not explicitly request to discharge [defense counsel], or notify the circuit court in any manner of the desire to seek different counsel. Compounding the lack of notification to the court of a desire to seek different counsel, [Mr. Wood] accepted [defense counsel’s] representation without complaint at three additional pretrial hearings, trial, and sentencing. For all of these reasons, we conclude that the circuit court properly addressed [Mr. Wood’s] concerns over the lack of discovery and did not violate the procedures set forth in Maryland Rule 4-215(e).

Wood, 209 Md. App. at 288 (footnote omitted).

We reach a similar conclusion here. Like Mr. Wood, all of Mr. Zinn’s statements about defense counsel were rooted in his request to obtain particular discovery. Mr. Zinn

did not explicitly request to discharge defense counsel, or notify the court in any manner of a desire to seek different counsel. Moreover, Mr. Zinn subsequently accepted defense counsel's representation without complaint at a hearing on motions, trial, and sentencing. For these reasons, we conclude that the court did not violate Rule 4-215.

**JUDGMENTS OF THE CIRCUIT COURT
FOR FREDERICK COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**