Circuit Court for Baltimore County
Case No. 03-K-19-000584

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1075

September Term, 2020

JUSTIN SCROGGINGS

v.

STATE OF MARYLAND

Kehoe,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 4, 2021

Convicted by the Circuit Court for Baltimore County of conspiracy and related offenses, Justin Scroggings, appellant, presents for our review a single question: whether the court complied with Rule 4-215. For the reasons that follow, we shall affirm the judgments of the circuit court.

On February 6, 2019, Mr. Scroggings was charged by indictment. On June 3, 2019, defense counsel entered her appearance, and on June 7, 2019, appeared with Mr. Scroggings for a pretrial hearing. On October 15, 2019, Mr. Scroggings, *pro se*, filed a "Writ of Habeas Corpus [and] Motion for an Immediate Bail Review," in which he stated that he was "representing himself Pro Se." Mr. Scroggings also certified that he mailed a copy of the pleading to the Office of the State's Attorney. The court subsequently denied the motion.

On October 29, 2019, Mr. Scroggings, *pro se*, filed a "Request for Discovery," in which he again stated that he was "representing himself Pro Se," and asked the court to "direct that the State's Attorney . . . permit [Mr. Scroggings] to inspect and copy" certain information and exhibits. On December 2, 2019, defense counsel appeared with Mr. Scroggings for a second pretrial hearing. Later that month, Mr. Scroggings, *pro se*, filed a motion pursuant to Rule 4-252, in which he again stated that he was "representing himself . . . Pro Se." Mr. Scroggings also filed a "Motion to Dismiss Individual Charges, . . . Dismiss Indictment, and . . . Suppress Physical Evidence," a "motion to dismiss . . . on grounds of lack of any scientific evidence," and a "motion to dismiss . . . on legal grounds of unnecessary delay for [the] purpose of obtaining a statement or confession." Mr.

Scroggings certified that he mailed a copy of the motions to the Office of the State's Attorney.

On January 16, 2020, defense counsel appeared with Mr. Scroggings for a third pretrial hearing, during which she moved to withdraw Mr. Scroggings's "handwritten motions" without prejudice. The court granted the request. On February 5, 2020, defense counsel appeared with Mr. Scroggings for a fourth pretrial hearing, at which she withdrew the "motions for discovery, . . . to dismiss, . . . to suppress, [and] for a bond review." Defense counsel subsequently appeared with Mr. Scroggings for and throughout trial.

Mr. Scroggings now contends that "[u]nder these circumstances," specifically the fact that he "file[d] six pro se motions in which he explicitly state[d] that he [was] representing himself pro se[,] it [was] incumbent on the [c]ourt to ask [Mr. Scroggings] if he wishe[d] to discharge counsel and represent himself," and the "failure to do [so] violate[d]" 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"). *State v. Northam*, 421 Md. 195 (2011), is instructive. Following Mr. Northam's arrest and charging, an assistant public defender entered his appearance on Mr. Northam's behalf. *Id.* at 197-98. Prior to trial, Mr. Northam, *pro se*, filed a motion "For a Change of Venue," at the end of which he stated: "I'm requesting a Court appointed attorney and Change of Venue." *Id.* at 202-03. The court subsequently denied the motion. *Id.* at 203.

On appeal, this Court held that Mr. Northam's statement required a Rule 4-215(e) inquiry. *Id.* at 205. Reversing our judgment, the Court of Appeals stated:

In *White v. State*, 23 Md. App. 151, 326 A.2d 219 (1974), cert. denied, 273 Md. 723 (1975), while affirming convictions for murder and related offenses, and rejecting the appellant's contention "that prejudicial error was committed by the failure of the court below to rule on the speedy trial issue he raised prior to trial [in subparagraph c of paragraph 10 in a single Motion to Dismiss the Indictments]," the Court of Special Appeals stated:

> Although appellant raised several preliminary questions to be decided by [the trial judge], at no time did appellant mention the undecided subparagraph 10c of the Motion to Dismiss, disposed of in all other respects by [the motions hearing judge].
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> * * *
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> Although appellant cites no authority for his contention that failure to rule upon a pending motion may be prejudicial error we have no question that such right is an important element of Maryland law. *Brice v. State*, 254 Md. 655[, 255 A.2d 28 (1969)]. We note, however, that this right, as most other rights, carries with it a commensurate responsibility. The motion to be decided must be brought to the attention of the trial court. Appellant may not take advantage of an obscurely situate, undecided motion and stand mute in the face of repeated requests by the judge for all pending motions to be decided . . . . If the question is not of such importance to appellant that he remembers to request an answer, the court cannot be charged with screening previously decided motions to discern an unanswered sentence obscured by a plethora of unrelated issues. Nor can we permit such distended motions to be set as a trap for an unwary judge. Appellant obviously waived his right to a ruling on the motion by repeatedly failing to present the question to [the trial judge].

Id. at 155-56, 326 A.2d at 222.

That analysis, which is entirely consistent with this Court's opinions involving "omnibus" motions filed pursuant to Md. Rule 4-252, is fully applicable to the case at bar. At the pretrial hearing held on September 12, 2008, at the final pretrial hearing held on September 24, 2008, as well as prior to trial on September 25, 2008, [Mr. Northam] had the opportunity to request permission to discharge [defense counsel]. Because no such request was presented to [the trial judge] on any of these occasions, we agree with

> the State's argument that (in the words of its brief), "Rule 4-215(e) was not implicated, much less violated, by the trial court."

Northam, 421 Md. at 206-07 (footnote omitted).

We reach a similar conclusion here. At three pretrial hearings and prior to trial, Mr. Scroggings had the opportunity to request permission to discharge defense counsel. No such request was presented to the trial judge on any of these occasions, and hence, the court did not violate Rule 4-215.

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