

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1251

September Term, 2024

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MARC A. AGUIRRE

v.

STATE OF MARYLAND

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Arthur,  
Shaw,  
Getty, Joseph M.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Getty, J.

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Filed: May 8, 2026

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

When a defendant, on the morning of trial, requests to discharge the panel attorney assigned by the Office of the Public Defender to represent the defendant, the trial court judge must traverse the proverbial minefield that is Maryland Rule 4-215.<sup>1</sup>

Appellant, Marc A. Aguirre (“Aguirre”), was charged with burglary, assault, home invasion, and malicious destruction of property in connection with an incident which occurred on October 26, 2023, in Frederick, Maryland. At the outset of the trial proceedings in the Circuit Court for Frederick County, Aguirre informed the court that he wished to discharge his assigned panel attorney and requested effective counsel as a replacement. Aguirre claimed that his attorney withheld discovery materials from him and was conspiring with the State to coerce him into taking a plea deal.

The court ultimately granted Aguirre’s request to discharge counsel, but did not appoint a new attorney to represent him. The court also granted Aguirre a postponement of his trial date. His trial proceeded on July 1, 2024, with Aguirre appearing self-represented, after which Aguirre was found guilty of one count of burglary and three counts of malicious destruction of property valued under \$1,000.

Aguirre now appeals the trial judge’s refusal to appoint new counsel after he discharged his panel attorney and presents only one question:<sup>2</sup>

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<sup>1</sup> “For a judge to traverse Rule 4-215 is to walk through a minefield. A miracle might bring one across unscathed. For mere mortals, the course will seldom be survived.” *Garner v. State*, 183 Md. App. 122, 127 (2008).

<sup>2</sup> Aguirre styles his question presented as: “Did the Trial Court fail to comply with Maryland Rule 4-215 and the Appellant’s right to counsel?”

Did the trial court err in failing to comply with Md. Rule 4-215 after Mr. Aguirre requested permission to discharge his attorney?

For the reasons described below, the trial court did not comply with the requirements of Rule 4-215 because it failed to give Aguirre the necessary advisements after his counsel was discharged. Accordingly, we must reverse Aguirre’s conviction and remand for a new trial.

### **PROCEDURAL HISTORY**

On October 26, 2023, Mr. Jeremiah Main contacted Frederick County police when Aguirre came to his residence and began smashing the windows of the vehicles in Main’s driveway. Aguirre then smashed the living room window of Main’s home and attempted to enter the residence shortly before police arrived at the scene. Aguirre was arrested and charged that day in the District Court of Maryland, sitting in Frederick County. In January 2024, Aguirre prayed a jury trial, which transferred his case to the Circuit Court for Frederick County. At trial, Aguirre was convicted of one count of burglary and three counts of malicious destruction of property valued under \$1,000.

The issues on appeal arose at the commencement of trial on May 6, 2024, when Aguirre informed the court that he wanted to discharge his panel attorney appointed by the Office of the Public Defender. Aguirre explained that his desire to discharge counsel stemmed from his belief that his attorney was conspiring against him:

MR. AGUIRRE: . . . Your Honor, I have evidence of the State and my current lawyer, [] conspiring to commit fraud by entering false evidence in my discovery. On Friday May 3rd, 2024, [defense counsel] made a comment that being a State’s Attorney, good ones can figure out how to plant false evidence without the defendant knowing. He also made comments about me being at where I belong and will be in jail or prison for a long time. He claims I will

never be granted bail. I was initially presented with discovery Thursday, May 2nd while insulting my intelligent [sic] with the question, what do you think discovery is for? I looked up my discovery and realized a lot was missing, including 33 photos.

To give you an estimate, there are at least 50 discovery violations, the most pertinent being failure to produce full discovery, and therefore, unprepared to defend client for trial. I find this just cause to discharge or fire [defense counsel] on the basis of meritorious reason Section E of Rule 4-215, and would like to request effective counsel as replacement. I am requesting this case be dismissed based on multiple discovery violations, including adding discovery [on the] day of trial May 6, 2024. I am aware of Rule 4-215, and there are three options. The trust has been severed and fatally broken with [defense counsel]. I do not trust him to remain available on a standby basis.

The court then asked Aguirre's counsel and counsel for the State about the allegedly missing discovery, and both confirmed that the State provided all necessary materials, which included body-worn camera footage, the 911 call, a letter, and other documents, and photographs. Aguirre asserted that either both attorneys were lying about exchanging discovery, or, if his counsel was given the necessary materials, that counsel deliberately withheld them from him:

THE COURT: Well, they've indicated they've sent everything that they have, which did include body cam footage, 911 call, and letters.

MR. AGUIRRE: And then that's failure of my lawyer to present that evidence to me. He did not try to give me discovery on the 2nd.

Ultimately, the court determined that no discovery violation had been committed, despite Aguirre's grievance with his attorney:

THE COURT: But with respect to the discovery, I haven't heard anything that they've said that you're supposed to have that you don't have.

MR. AGUIRRE: He share—he—he obviously shared it with my counsel, and my counsel has not shared it with me.

THE COURT: That goes to whether or not you have a breakdown with your lawyer. But with respect to what was provided, it sounds like everything you're thinking was not provided has been provided.

After hearing from Aguirre, the court asked defense counsel for his assessment of the situation. As counsel responded, Aguirre interrupted him and again accused him of lying, which drew an admonishment from the court.

THE COURT: [Counsel], is there anything else you wanted to tell me? We did hear from your client. We did hear from the State. Was there anything else you wish to add? There doesn't have to be—I just wanted to make sure you had every opportunity if there's anything you wanted to say.

[DEFENSE COUNSEL]: No, Your Honor, I want to help Mr. Aguirre. I don't have ill will. I know that –

MR. AGUIRRE: That's a lie.

[DEFENSE COUNSEL]: Okay.

THE COURT: Sir, you were given plenty of opportunity to speak. Don't be disrespectful at this point.

MR. AGUIRRE: I'm not being disrespectful. I'm correcting a lie.

THE COURT: Well, you've interrupted him and you just basically called him a liar, and I've given you the opportunity to speak. I'm asking if there's anything he wishes to say at this point.

MR. AGUIRRE: Okay.

[DEFENSE COUNSEL]: But unfortunately, I think we are to the point where I can't effectively represent him anymore. The relationship is broken.

The court then advised Aguirre of both his speedy trial rights and jury trial rights and began to inquire as to whether he wanted to proceed with trial that day or potentially postpone. Aguirre, who evidently was knowledgeable about his right to counsel and the rules pertaining thereto, then asked again to have substitute counsel appointed.

MR. AGUIRRE: Okay, so what are we doing about counsel? Because it depend—it depends on if you find a meritorious reason to discharge him and appoint me new counsel.

THE COURT: Well, I –

MR. AGUIRRE: That’s what it – it boils down to.

THE COURT: Sir, I can’t appoint you new counsel.

MR. AGUIRRE: I understand you can’t appoint me, but if I am –

THE COURT: I’m asking you if you wish a post—

MR. AGUIRRE: If—if there is a conflict of interest between me and the State, me and the Public Defender’s Office, how is that my constitutional rights not being violated to have a conspiracy of the State working to illegally appoint a pro bono lawyer, which is what they did to—to basically violate my [sixth amendment] rights. They’re forcing an attorney on me to basically coerce me to take a false plea to something I did not commit.

THE COURT: Well, I don’t find any of that, sir. I don’t find any of that.

The court confirmed that Aguirre wanted to discharge his attorney, after which counsel advised Aguirre on the record that the Office of the Public Defender had no obligation to provide him with another attorney. The court then struck the appearance of defense counsel and the Office of the Public Defender.

After Aguirre’s counsel was removed from the case, Aguirre and counsel for the State discussed a possible plea agreement off the record, which Aguirre rejected. Aguirre then requested a postponement of his trial date. The State opposed, arguing that the case should proceed as scheduled because the State’s witnesses were present and prepared to proceed, and Aguirre’s voluntary decision to discharge his attorney was not good cause for a continuance. The court ultimately granted the postponement, saying that it “[felt] constrained to postpone the matter[,]” to allow Aguirre time to obtain new counsel.

THE COURT: Okay, all right, and I've heard the State's response with an objection with respect to that, and as I indicated that I am very cognizant of the inconvenience to the victims in this case, to the witnesses, to anyone else in this case, but I do believe it is appropriate given the circumstances to postpone this matter. I do find good cause. The good cause is the – it is the defendant's request for a postponement. The primary reason is for the breakdown in communication between the defendant and his counsel who he is discharging today.

The case was then reset to July 1, 2024, for trial. Aguirre appeared self-represented at trial and was ultimately found guilty of the aforementioned charges. He timely appealed.

### STANDARD OF REVIEW

Case law interpreting Rule 4-215 has consistently held that its provisions are mandatory and require strict compliance. *Pinkney v. State*, 427 Md. 77, 87 (2012). As such, a trial court's noncompliance with Rule 4-215 "constitutes reversible error." *Id.* at 88. When examining compliance, a reviewing court utilizes a *de novo* standard of review. *State v. Graves*, 447 Md. 230, 240 (2016).

### DISCUSSION

Maryland Rule 4-215(e) ("Discharge of Counsel—Waiver") states in full:

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) requires strict compliance when the request to discharge counsel is timely, meaning that it was made “before ‘meaningful trial proceedings’ have begun.” *Hargett v. State*, 248 Md. App. 492, 502–03 (2020) (quoting *State v. Brown*, 342 Md. 404, 423 (1996)). This includes “up to and including the beginning of trial[.]” *Brown*, 342 Md. at 428.

Once the Rule is triggered, there are specific steps that the court must follow. Our Supreme Court broke down each of these steps in *Dykes v. State*, 444 Md. 642 (2015). First, the court must allow the defendant to explain their reasons for wanting to discharge counsel, and the court can ask both the defendant and counsel about their perceptions of whether discharge is necessary. *Id.* at 652. After hearing the defendant’s explanation, the court then decides whether the reasons presented are meritorious. *Id.* This determination controls the next step. If the court finds that the reasons have merit, it must permit discharge, continue the action if necessary, advise the defendant that they will proceed unrepresented if new counsel is not obtained, and conduct further proceedings if required by Rule 4-215(a). *Id.* Conversely, if the court does not find the reasons to have merit, the court must advise the defendant that the trial will proceed as scheduled, advise the defendant that they will be unrepresented if counsel is discharged and new counsel is not obtained, and conduct further proceedings if required by Rule 4-215(a). *Id.* at 653.

The Court in *Dykes* went on to explain key distinctions in how a meritorious discharge of counsel and an unmeritorious discharge of counsel affect the defendant’s rights. Primarily, the Court explained “that a discharge of counsel for a *meritorious* reason does not automatically constitute waiver of the right to counsel[.]” whereas an

unmeritorious reason “may constitute a waiver of counsel.” *Id.* at 654 (emphasis in original). If the court finds a meritorious reason for discharge, “the situation reverts—insofar as concerns the right to counsel—to that of a freshly arraigned, unrepresented defendant.” *Id.* at 653. This means that, in the case of an indigent defendant, the defendant has an opportunity for new appointed counsel. *Id.* This is not the case if the reasons for discharge are found to be unmeritorious. “In such a situation a defendant is *not* entitled to substitute counsel.” *Id.* (emphasis added).

Aguirre offers two arguments here as to how the circuit court failed to comply with Rule 4-215(e). He contends that the court, upon finding a meritorious reason for his discharge of counsel, then failed to appoint him substitute counsel pursuant to *Dykes*. In the alternative, he argues that, if the court found his reasons to be unmeritorious, it failed to comply with subsections (a)(1)–(4) of Rule 4-215 after permitting him to discharge counsel. The State responds that the court did indeed find his reasons to be unmeritorious and that the record reflected prior compliance with subsections (a)(1)–(4), and thus the court needed to take no further action. As such, we will walk through each of the steps required by Rule 4-215(e) to determine if the court properly complied.

***Step 1: The Defendant Explains the Reason for Requesting Discharge***

It is clear that the trial court here complied with the first step of Rule 4-215(e). The trial court does not need to conduct a “full-scale inquiry” into the defendant’s reasoning for the discharge request. *Brown*, 342 Md. at 431. The court, however, retains the responsibility to ensure that the defendant has explained their reason for requesting the discharge and is further required to consider the given reason before issuing a decision. *Id.*

Here, the court allowed Aguirre to fully explain his distrust in his attorney and his belief that he was missing discovery:

MR. AGUIRRE: . . . Your Honor, I have evidence of the State and my current lawyer, [] conspiring to commit fraud by entering false evidence in my discovery. On Friday May 3rd, 2024, [defense counsel] made a comment that being a State’s Attorney, good ones can figure out how to plant false evidence without the defendant knowing. He also made comments about me being at where I belong and will be in jail or prison for a long time. He claims I will never be granted bail. I was initially presented with discovery Thursday, May 2nd while insulting my intelligent [sic] with the question, what do you think discovery is for? I looked up my discovery and realized a lot was missing, including 33 photos.

To give you an estimate, there are at least 50 discovery violations, the most pertinent being failure to produce full discovery, and therefore, unprepared to defend client for trial. I find this just cause to discharge or fire [defense counsel] on the basis of meritorious reason Section E of Rule 4-215, and would like to request effective counsel as replacement. I am requesting this case be dismissed based on multiple discovery violations, including adding discovery [on the] day of trial May 6, 2024. I am aware of Rule 4-215, and there are three options. The trust has been severed and fatally broken with [defense counsel]. I do not trust him to remain available on a standby basis.

The court then engaged Aguirre, defense counsel, and counsel for the State in a lengthy conversation about the discovery that was exchanged and what Aguirre alleged was missing before determining that there had not been a discovery violation. The court asked defense counsel if he had anything additional to say in response to Aguirre’s request that he be discharged, to which counsel responded, “unfortunately, I think we are to the point where I can’t effectively represent him anymore. The relationship is broken.” The court then found that there had been “an irretrievable breakdown of the attorney-client relationship between [Aguirre] and [defense counsel].”

The record shows that Aguirre was given the opportunity to explain his reasons for the request to discharge counsel, and that the court considered them. Therefore, the first requirement of Rule 4-215(e) was met.

***Step 2: The Court Determines Whether the Reason Is Meritorious***

As explained in *Dykes*, once the defendant has offered their explanation for requesting discharge of counsel, the court then decides whether the defendant’s reasons are meritorious. 444 Md. at 652. While the Rule itself does not define meritoriousness, the Supreme Court has equated it with “good cause.” *Id.* (citing *Gonzales v. State*, 408 Md. 515, 531–33 (2009)). The meritoriousness determination is left to the court’s discretion but “must be measured against an objective standard.” *Brown*, 342 Md. at 413 n.3 (citing *United States v. Allen*, 789 F.2d 90, 93 (1st Cir. 1986)). The reviewing court will only reverse if the trial court’s decision on meritoriousness is “‘well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.’” *State v. Taylor*, 431 Md. 615, 630 (2013) (quoting *King v. State*, 407 Md. 682, 697 (2009)).

The court in the instant case declined to state with specificity whether it found Aguirre’s reasons for discharging counsel to be meritorious. Although Rule 4-215 does not require an explicit finding of meritoriousness, *see Webb v. State*, 144 Md. App. 729, 747 (2002) (“The court, after listening to the [defendant’s explanation for appearing without counsel], implicitly found the reason was non-meritorious.”), the court declined to make an explicit finding even when asked by Aguirre:

MR. AGUIRRE: Okay, so what are we doing about counsel? Because it depend—it depends on if you find a meritorious reason to discharge him and appoint me new counsel.

THE COURT: Well, I –

MR. AGUIRRE: That’s what it – it boils down to.

THE COURT: Sir, I can’t appoint you new counsel.

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MR. AGUIRRE: So you’re saying it’s an unmeritorious reason.

THE COURT: I’m saying that there has been an irretrievable breakdown in the attorney-client relationship, and for that reason I would allow your attorney to exit the case.

Aguirre contends that the court’s finding that there had been an “irretrievable breakdown in the attorney-client relationship” is “coded language” for a finding that his reason for discharge was meritorious. We disagree.

Despite the court’s reluctance to state explicitly whether Aguirre’s reasons were meritorious, the record is clear that the court implicitly found his reasons to be unmeritorious because the court repeatedly stated that it did not find Aguirre’s accusations against his counsel to be credible.

THE COURT: But with respect to the discovery, I haven’t heard anything that they’ve said that you’re supposed to have that you don’t have.

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MR. AGUIRRE: If—if there is a conflict of interest between me and the State, me and the Public Defender’s Office, how is that my constitutional rights not being violated to have a conspiracy of the State working to illegally appoint a pro bono lawyer, which is what they did to—to basically violate my [sixth amendment] rights. They’re forcing an attorney on me to basically coerce me to take a false plea to something I did not commit.

THE COURT: Well, I don't find any of that, sir. I don't find any of that.

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MR. AGUIRRE: I'm not trying to pick a lawyer; I'm just trying to have an effective counsel.

THE COURT: Well, I don't find that your current counsel has been ineffective.

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THE COURT: Sir, there has been a breakdown between you and your lawyer that you have reported to me. I have not found that discovery was not provided to your counsel as you initially alleged. You've then later alleged that it wasn't shared with you by your counsel, although— . . . Your counsel has indicated he provided the discovery to you, and then late-provided items he attempted to go over with you the last time he met in person with you. You have received discovery. You have been able to review that discovery.

The “breakdown” to which the court referred was fueled by Aguirre’s distrust and acrimony towards his attorney and was therefore not a meritorious reason for discharge. *See Cousins v. State*, 231 Md. App. 417, 442 (2017) (disagreeing with the appellant’s assertion that the alleged breakdown of his relationship with defense counsel was a meritorious reason for discharge because the breakdown resulted principally from appellant’s unreasonable demands); *Weathers v. State*, 231 Md. App. 112, 142 (2016) (Graeff, J., concurring) (“a defendant is not entitled to substitute counsel where he or she is the cause of the communication breakdown”).

Aguirre further argues that the judge’s grant of his request to postpone his trial date indicated that the court found his reason for discharge to be meritorious because “[t]he postponement of the trial date is one that the Court only need consider under Maryland

Rule 4-215 . . . once the Court has determined that the reason for the discharge *is meritorious.*” (Emphasis in original). We are not so persuaded.

Section 6-103 of the Criminal Procedure Article (“CP”) of the Maryland Code governs trial dates for criminal trials. The statute provides that, upon a showing of good cause, “the county administrative judge or a designee of the judge may grant a change of the trial date in a circuit court” on the motion of a party or on the initiative of the circuit court. CP § 6-103(b). Accordingly, whether to grant a defendant’s request for a postponement is generally discretionary. *See Tunnell v. State*, 466 Md. 565, 589 (2020) (“An administrative judge’s determination that there is good cause for a continuance is ‘a discretionary matter, rarely subject to reversal upon review.’”) (quoting *State v. Frazier*, 298 Md. 422, 451 (1984)). Rule 4-215(e) specifies, however, that if the reason for the defendant’s discharge of counsel is found to be meritorious, the court *shall* “continue the action if necessary[.]”

If the reason for discharge is found to be unmeritorious, “the rule does not direct the court to allow a continuance.” *Dykes*, 444 Md. at 653. Instead, the Rule requires that a defendant must first be advised “that the trial will proceed as scheduled with the defendant unrepresented by counsel if the defendant discharges counsel and does not have new counsel” before the court may permit counsel to be discharged. This does not independently prohibit the court from granting a postponement in those circumstances. Merely because the rule “does not direct” the court to allow a continuance when the defendant’s reasons are unmeritorious does not mean that the court may not do so in the exercise of its own discretion.

The trial judge here alluded to this distinction in her colloquy with Aguirre when he requested a postponement.

THE COURT: We could go forward and have a trial today. We have the —

MR. AGUIRRE: No, we cannot.

THE COURT: — witnesses here to do it.

MR. AGUIRRE: No, we cannot.

THE COURT: We certainly can.

MR. AGUIRRE: Because I need counsel. I need time to get adequate counsel.

THE COURT: You had counsel.

The judge's statement that trial could proceed that day indicated that the court in fact did not find Aguirre's reasons for discharging his attorney to be meritorious, as the court would have been required to continue the action if it found that his reasons had merit. Even upon a finding that Aguirre's reasons for discharging counsel were unmeritorious, the decision of whether to grant his request for a postponement rested within the discretion of the county administrative judge. *See* CP § 6-103(b); *Tunnell*, 466 Md. at 589. The court's grant of Aguirre's request for a postponement was an exercise of that discretion, not a determination that his reasons for discharging his counsel had merit.

### ***Step 3: The Advisements in the Circuit and District Courts***

Having determined that the circuit court found Aguirre's reasons for discharging his attorney to be unmeritorious, the court was then required to advise him that the trial would proceed as scheduled, advise him that he would be unrepresented if counsel was discharged

and new counsel was not obtained, and conduct further proceedings if required by Rule 4-215(a). *Dykes*, 444 Md. at 653.

After hearing Aguirre's explanation for why he wanted to discharge his counsel and counsel's response, the court advised Aguirre as follows:

THE COURT: All right, thank you. Mr. Aguirre, and you do have the right to have a bench trial here today. If you would like to have a trial just in front of me without a jury, you can do that. You do have the right to a jury trial. You also can—because you have a right to a speedy trial, to have this heard within a certain period of time.

Aguirre then interrupted to ask if the court would be appointing him new counsel, to which the court responded that it would not and continued:

THE COURT: So if you wish to discharge him, I've heard from him as well. If that is what you wish to do, then I will allow him to remove himself from the case, but that limits your ability, because you don't just automatically get some new lawyer. You're going to have to—at this point—. . . You'll have limited opportunities thereafter, because the Office of Public Defender, you don't just get to choose whatever lawyer you want. The Office of Public Defender does not have to appoint you another attorney. You may have to hire private counsel at that point. I don't know exactly what they'll do, but you don't have an absolute right to have a lawyer of your choosing.

The court then repeated that Aguirre's trial could go forward that day and stated that it would not grant him a continuance so that he could review discovery already provided to his counsel.

THE COURT: I'm saying that there has been an irretrievable breakdown in the attorney-client relationship, and for that reason I would allow your attorney to exit the case.

MR. AGUIRRE: Now are—is—is he taking himself off the case or is he fired?

THE COURT: You're asking that he be removed from the case.

MR. AGUIRRE: I am letting it be up to his decision, or basically up to your decision.

THE COURT: Well, he's saying he's willing to represent you today. You can have a trial today. He will represent you today.

MR. AGUIRRE: Okay, then I would have to talk to him and he has to do his job properly, but we are not prepared to go to trial today.

THE COURT: Well, I'm not—

MR. AGUIRRE: I do not—I have not been—

THE COURT: —postponing it for that reason, sir.

MR. AGUIRRE: I have not had a chance to review all discovery, you can't—then I am going to fire him. If you are not going to grant—I will fire him then. If you're not—you need to grant a continuance, because this is not fair to me to go to trial.

THE COURT: I don't need to do anything.

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THE COURT: I'm asking if you are discharging your lawyer today. That's step number one. And you said no, that you might want—you might not want to, but he's got to do his job, but you got to go through discovery and then you'd have a postponement. I'm not giving you a postponement for that reason, to go through discovery additionally at this time. You've had counsel for that.

Aguirre then confirmed that he wanted to discharge defense counsel, and counsel gave him an additional advisement concerning the Public Defender's office, after which the court struck defense counsel's appearance from the case.

[DEFENSE COUNSEL]: Mr. Aguirre, you do understand, as we've discussed, that if you discharge me as a paneled attorney by the Public Defender's Office, the Public Defender's Office is under no obligation to provide you any other attorneys. Do you understand that, sir?

MR. AGUIRRE: I do understand that, and I believe that is unfair.

THE COURT: All right, thank you. All right, I will strike the appearance of [defense counsel] and the Office of the Public Defender in this case today.

Taken together, the advisements and remarks from the court made clear that Aguirre was not immediately entitled to a postponement and that the Office of the Public Defender was under no obligation to provide him with additional counsel. As such, the court complied with its obligation to advise Aguirre that trial would proceed as scheduled and that he would be unrepresented if new counsel was not obtained before the court permitted him to discharge his attorney.

Rule 4-215(e) also provides that, 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(a)(1)-(4) states:

(a) First appearance in court without counsel. — At the defendant’s first appearance in court without counsel, or when the defendant appears in the District Court without counsel, demands a jury trial, and the record does not disclose prior compliance with this section by a judge, the court shall:

(1) Make certain that the defendant has received a copy of the charging document containing notice as to the right to counsel.

(2) Inform the defendant of the right to counsel and of the importance of assistance of counsel.

(3) Advise the defendant of the nature of the charges in the charging document, and the allowable penalties, including mandatory penalties, if any.

(4) Conduct a waiver inquiry pursuant to section (b) of this Rule if the defendant indicates a desire to waive counsel.

Although it is preferable that these advisements be given all at once, they need not be. In *Broadwater v. State*, the Supreme Court explained that these advisements may be given in a piecemeal fashion.

We hold that the litany of advisements required by Rule 4-215(a) may be given satisfactorily to a defendant where the record shows a piecemeal and cumulative rendition of the advisements by successive judges of the District and Circuit Courts in those cases where the District Court had exclusive original jurisdiction of the charges at their inception and the case is transferred to the Circuit Court upon the defendant's prayer for a trial by jury. Although these advisements also may be given at one time in a single omnibus hearing, which should be the preferred mode of rendering the advisements, that is not the only modality through which compliance may be achieved under the Rule.

401 Md. 175, 206–07 (2007).

The State here acknowledges that the circuit court judge did not give Aguirre the advisements required by Rule 4-215(a) when he discharged his attorney but argues that Aguirre received the required advisements when he first appeared in the district court. The State contends that, pursuant to *Broadwater*, because the record reflected that the advisements were given in the district court, Rule 4-215(a) was satisfied, and the circuit court judge did not need to take any further action.

Aguirre's first court appearance was for a bail review hearing in the district court on October 27, 2023. At that time, the district court judge gave him the following advisements:

THE COURT: Mr. Aguirre, I'm going to advise you of charges that have been brought against you and some legal rights that you do have. I'll be hearing from your counsel here shortly, I believe.

[Counsel], are you representing him at this bail review?<sup>[3]</sup>

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<sup>3</sup> When Aguirre appeared at the October 27, 2023 bail review hearing, he was represented by an Assistant Public Defender. This attorney was a separate individual from the panel attorney who later represented Aguirre and who Aguirre discharged on the morning of trial on May 6, 2024.

[ASSISTANT PUBLIC DEFENDER]: Yes.

THE COURT: Good. Thank you.

You have been charged with home invasion. That does carry a potential penalty of up to 25 years of imprisonment if convicted.

Burglary in the fourth degree, which carries up to three years of imprisonment if convicted.

Three counts of malicious destruction of property. Each count carrying up to three years of imprisonment and a \$2,500 fine.

A malicious destruction of property charge carrying three years and \$2,500 in fines.

Burglary in the third degree, carrying up to ten years of imprisonment.

Burglary in the first degree, carrying up to 20 years of imprisonment.

And two counts of assault in the second degree, each count carrying up to ten years of imprisonment and a \$2,500 fine if convicted.

Did you receive a copy of your charges?

[AGUIRRE]: Yes, sir.

THE COURT: All right.

And, [Counsel], is your office representing him throughout these proceedings and –

[ASSISTANT PUBLIC DEFENDER]: We are, correct.

THE COURT: Very good.

The Office of the Public Defender, sir, is going to be representing you throughout your case. It is important to continue to work with your counsel. Your lawyer will be very helpful to you as you proceed through this process, I'll be hearing from her shortly.

The district court record also included a Notice of Advice of Right to Counsel for All Judicial Proceedings that was attached to the charging documents. This notice bears

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Aguirre’s signature acknowledging his receipt, in addition to his statement to the judge that he received a copy of his charges. Accordingly, the district court judge satisfied requirements (1) and (3) of Rule 4-215(a) by ensuring that Aguirre received a copy of the charging documents with the notice of his right to counsel and advising him of the nature of the charges against him and the allowable penalties for each.

The record does not reflect, however, that the district court judge informed Aguirre “of the right to counsel and of the importance of assistance of counsel” as is required by Rule 4-215(a)(2). The judge’s general statement that it was “important” for Aguirre to work with his counsel and that his lawyer will be “very helpful” to him was inadequate to advise him of the full scope of his right to counsel, its importance, and the probable consequences of proceeding without counsel. *See Evans v. State*, 84 Md. App. 573, 580 (1990) (“Subsection (a) requires the court to take certain action upon a defendant’s first appearance in court without counsel, including informing the defendant of the right to counsel, its importance, and the probable consequences of appearing on a subsequent occasion without counsel.”)

Accordingly, the duty was on the circuit court judge to advise Aguirre of the full scope of that right when he sought to discharge his panel attorney on May 6, 2024. The circuit court judge’s failure to do so constitutes reversible error.<sup>4</sup> *See Walker v. State*, 190 Md. App. 577, 585 (2010) (“If the mandates of Rule 4-215 are not strictly complied with,

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<sup>4</sup> Because the court failed to comply with Rule 4-215(a)(2), we do not reach the issue of whether the court complied with Rule 4-215(a)(4), which requires the court to conduct waiver inquiry pursuant to Rule 4-215(b).

reversal is required.”); *Hawkins v. State*, 130 Md. App. 679, 686 (2000) (“The provisions of [Rule 4-215(e)] are mandatory and noncompliance requires reversal.”)

### CONCLUSION

We conclude that the circuit court did not comply with the requirements of Rule 4-215. For this reason, we remand the case for further proceedings consistent with this opinion.

**JUDGMENT OF THE CIRCUIT  
COURT FOR FREDERICK  
COUNTY REVERSED AND  
REMANDED FOR FURTHER  
PROCEEDINGS CONSISTENT  
WITH THIS OPINION. COSTS TO  
BE PAID BY FREDERICK COUNTY.**

The correction notice(s) for this opinion(s) can be found here:

<https://www.mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/1251s24cn.pdf>