Circuit Court for Talbot County
Case No. C-20-CR-22-000252

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2184

September Term, 2023

SETH CHRISTIAN BOUDREAUX

v.

STATE OF MARYLAND

Arthur,
Shaw,
Zic,

JJ.

Opinion by Arthur, J.

Filed: August 7, 2025

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

After a bench trial in the Circuit Court for Talbot County, the court convicted appellant Seth Boudreaux of sexual abuse of a minor. The court sentenced Boudreaux to 20 years of incarceration with all but 12 years suspended.

Boudreaux appealed his conviction. He argues that the circuit court denied him his right to a jury trial and his right to the assistance of counsel. He also argues that the circuit court erred by failing to follow the procedure mandated by Md. Rule 4-215(e), which is triggered when a defendant expresses a desire to discharge counsel.

We agree that the court did not follow the mandates of Rule 4-215(e). Consequently, we must reverse Boudreaux's conviction and remand the case to the circuit court for a new trial.

FACTUAL AND PROCEDURAL HISTORY

The State alleged that Boudreaux sexually abused his partner's adolescent daughter, who is cognitively disabled. The State charged Boudreaux with sexual abuse of a minor and sexual abuse of a minor as a continuing course of conduct.

A. The Hearing on May 3, 2023

The circuit court scheduled a jury trial to begin on May 8, 2023. The court also scheduled a pre-trial motions hearing for May 3, 2023. At some point before the motions hearing, the State extended a plea offer to Boudreaux.

Before the pre-trial hearing could begin in earnest, Boudreaux's attorney asked the court for a recess so that she could confer with him. After the recess, Boudreaux told the court that he "[did not] want to plead guilty" and said to defense counsel, "I really don't

like that you're representing me." He stated to the court that he did not "feel like [he was] being represented properly."

The court asked Boudreaux to elaborate, and he replied, "I don't like the fact that there is a lot of evidence that is in my favor that just is being dismissed." The court did not ask for any further explanation of the reasons for Boudreaux's dissatisfaction. Nor did the court make a finding about whether his reasons were meritorious. Instead, the court explained to Boudreaux that, were he to elect to go to trial, he would be able to present evidence that he believed was in his favor. Boudreaux responded that he "would like to go to trial."

Counsel for both Boudreaux and the State explained that they had instructed witnesses not to appear in court for the motions hearing because they understood that Boudreaux would be entering a guilty plea. Counsel for Boudreaux said that she was "at a loss" with respect to how to proceed. She reiterated that Boudreaux did not feel as though she had been representing him properly. Counsel asked the court "to make sure that [it] is not an issue at this point."

The court addressed Boudreaux, stating: "Mr. Boudreaux, if you don't believe that you have been represented properly why don't you believe you have been represented properly?" Boudreaux replied that he had done "quite a bit of evidence searching before [he] came in [to the courthouse]," the result of which showed that he was "the victim in this." He told the court that he was upset that "the evidence [he] had assembled in [his] own defense . . . [had] been dismissed."

The court informed Boudreaux that his pending pre-trial motions would address some of those issues and asked defense counsel whether Boudreaux had shared the allegedly exculpatory evidence with her. Counsel responded that Boudreaux had shared that information with her and that she "advise[d] him of problems with admissibility of the things that he considers to be evidence." The court then began asking questions related to the pre-trial motions. The court did not inquire further about the reasons for Boudreaux's dissatisfaction with his attorney. Nor did the court determine whether his reasons were meritorious or advise him of what his options would be if it found his reasons to be unmeritorious.

After a recess, the court heard argument on two motions that Boudreaux had filed through counsel and one motion that the State had filed. Once the court had ruled on the motions, defense counsel informed the court that the State "intended to withdraw" its plea offer if Boudreaux did not respond to it. Defense counsel told the court that she "wanted to corner [Boudreaux] as to his position on this offer." The State indicated that the plea offer would stay open until the end of the day. The court took a recess.

Later in the afternoon, the court recalled Boudreaux's case, and defense counsel reported that Boudreaux was "prepared to enter a guilty plea." Boudreaux agreed that he was prepared. Defense counsel told the court that she and Boudreaux "would be prepared to waive [a jury trial] at this time," and the court proceeded to advise Boudreaux of his right to a jury trial.

The court informed Boudreaux of the basic elements of a jury trial. Boudreaux indicated verbally that he understood each of those elements. The court asked Boudreaux if anyone had made any promises or offers of reward to get him to waive his right to a jury trial. Boudreaux replied: "No, Your Honor." It asked whether anyone had threatened him, put any pressure on him, or forced him to waive his right to a jury trial. Boudreaux again replied: "No, Your Honor." The court asked if Boudreaux "wish[ed] to waive [his] right to a jury trial in this case." Boudreaux replied: "Yes, Your Honor." The court found that Boudreaux had "freely, voluntarily, knowing[ly], and intelligently waived his right to [a] trial by jury."

The State indicated that it was prepared to "put the plea on the record" if the court wished. Defense counsel suggested that the State could "put the plea offer on the record" and that the parties "could come back or even have a remote plea hearing" at a later date. The court suggested taking the plea six days later, and both parties assented.

B. The Hearing on May 9, 2023

The court and the parties reconvened six days later, on May 9, 2023. At the outset of the hearing, the court stated: "[W]e are here on a guilty plea." Counsel for Boudreaux replied: "I don't know [that] that is where we are anymore[.]" Counsel explained that Boudreaux had written a letter to the court, which she had not seen. She "[was] told," however, that "Mr. Boudreaux expressed that he was dissatisfied with [her] services and felt that [she] had bullied him into accepting a jury trial waiver in the plea bargain that

[the parties] had come up with." Counsel told the court that Boudreaux "may be asking the [c]ourt to reconsider" his jury trial waiver.

The court asked Boudreaux if he wished to discharge his attorney, and Boudreaux replied: "No, Your Honor, not at this time." Instead, Boudreaux stated that the purpose of his letter to the court was to obtain "additional [advice]" on whether to elect a jury trial or a bench trial. He claimed that, at the previous hearing, when the court explained his rights related to a jury trial, he "was not exactly aware . . . what [he] was waiving[.]" He told the court that he "[didn't] really know what the difference [was] between a jury [trial or] sitting just in front of a judge[.]" He claimed that he had "been asking for an actual explanation of that[,]" but had not "been able to talk" to his attorney.

The court readministered an explanation of the jury trial process. In the middle of the court's explanation, Boudreaux commented that he did not understand "the benefits of a jury trial as opposed to the benefits of a judge trial[.]" The court told Boudreaux that it could not "give . . . legal [advice] as to why in a particular case a jury trial might be more beneficial . . . than a judge trial." Boudreaux replied: "That was my confusion."

When the court finished its explanation of a jury trial, Boudreaux told the court that he felt as though he was "really ushered [into] actually just tak[ing] this plea[.]"[1] He said that he would "at the very least like to be heard" and wanted "an opportunity to state

[1] The context suggests that "ushered" may be an error in transcription and that Boudreaux may actually have said "pressured."

[his] case . . . against [his] accuser." The court responded: "Well then we will set this in for a court trial." The court scheduled the trial to begin October 23, 2023.

C. The Hearing on September 1, 2023

On September 1, 2023, the parties appeared in court for a pre-trial hearing. The court noted that since the hearing on May 9, 2023, Boudreaux had "filed a bunch of pro se motions," one of which was a motion to withdraw his jury trial waiver. The court indicated that it could "still have a hearing on whether [Boudreaux] wishes to [withdraw] his waiver of a jury trial." The State responded that the court had "already determined" whether Boudreaux was permitted to withdraw his jury trial waiver, at the hearing on May 9, 2023. Defense counsel responded that the court "did not" yet rule on any withdrawal request, but "want[ed] it to be clear for the record" that she would "not be arguing that motion on [Boudreaux's] behalf." Defense counsel continued: "I want it to be clear, I am not going to be at his hearing . . . in a [standby] capacity[] simply because I otherwise represent him. Should Mr. Boudreaux have a question on this motion, I am not available to answer it for him. This is his motion alone."

The court accepted that defense counsel would not argue the motion to withdraw the waiver of the right to a jury trial, but it noted that Boudreaux "would be compromised if there was a hearing outside of [counsel's] presence." The court set a hearing on the motions for September 20, 2023.

Defense counsel agreed to appear on that date, but repeated her concern that Boudreaux had filed motions that defense counsel "[couldn't] argue [herself]." As she

did at the hearing on May 3, 2023, defense counsel asked the court "to inquire with [Boudreaux] about whether he wishes to represent himself at this juncture." The court responded that "we may get to that in [the September 20] hearing." There was no further discussion of whether Boudreaux wanted to represent himself, of whether he had meritorious reasons for wanting to discharge his attorney, or of what his options would be if the court found his reasons to be unmeritorious.

D. The Hearing on September 20, 2023

On September 20, 2023, defense counsel began the hearing by reiterating that she "[had no] intention of arguing" Boudreaux's motions. Defense counsel remarked that she was "not [Boudreaux's] co-counsel" and that if Boudreaux "intend[ed] to argue [the motions] himself and proceed today," she would ask the court "to inquire with him if he wish[ed] to strike the appearance of the Office of the Public Defender before we go any further."

The court informed Boudreaux that, were the court to find him guilty of all the crimes with which he was charged, he faced the possibility of 86 years of aggregate incarceration.[2] The court began to advise Boudreaux of his right to counsel and the

[2] Md. Rule 4-215(a)(3) provides that, "[a]t the defendant's first appearance in court without counsel . . . the court shall [a]dvise the defendant of the nature of the charges in the charging document, and the allowable penalties, including mandatory penalties, if any." In giving Boudreaux information that a court is required to give at a "defendant's first appearance in court without counsel," the court seems to have been treating him as though he were unrepresented.

assistance an attorney could provide.[3] In the middle of the court's explanation about the benefits of counsel, Boudreaux interrupted the court:

> [BOUDREAUX]: I do understand that, Your Honor, and I do not intend to waive counsel.
>
> THE COURT: What? You do not intend to waive counsel?
>
> [BOUDREAUX]: I do not intend to waive counsel.
>
> THE COURT: All right. Okay, well I guess [defense counsel is] just standby counsel for today.
>
> [DEFENSE COUNSEL]: No. I cannot do that, Your Honor.
>
> THE COURT: What?
>
> [DEFENSE COUNSEL]: Our agency does not permit us to be standby counsel. We are either in or out. If Mr. Boudreaux chooses to file his own motions.

After defense counsel assured the court that she had provided Boudreaux with all discovery materials, the court allowed her to sit out the discussion of Boudreaux's motions. The court advised her, however, to remain in the courtroom. The court turned to Boudreaux and said: "All right Mr. Boudreaux, let's take up [your motions]." Boudreaux proceeded to argue the motions even though he had told the court that he did not intend to waive the right to counsel and even though his court-appointed counsel was present.

[3] Md. Rule 4-215(a)(2) provides that, "[a]t the defendant's first appearance in court without counsel . . . the court shall [i]nform the defendant of the right to counsel and of the importance of assistance of counsel." Again, in giving Boudreaux information that a court is required to give at a "defendant's first appearance in court without counsel," the court seems to have been treating him as though he were unrepresented.

After disposing of several of Boudreaux's motions, the court asked him about motion to withdraw his jury trial waiver. Boudreaux stated that he wished to "have a trial by jury." The court reminded Boudreaux that he had waived his right to a jury trial on May 3, 2023, and asked him "[w]hat [he had] done" since that time "other than just simply changing [his] mind."

Boudreaux stated that, on May 3, 2023, he "was faced with a plea and [was] under several different pressures[.]" He told the court that he "would like [to] be afforded" his "Constitutional right" to a jury trial. The court agreed with Boudreaux that he had a constitutional right to a jury trial, but stated that Boudreaux had "freely, voluntarily, knowingly, and intelligently" waived that right on May 3, 2023.

Boudreaux disputed that his waiver had been intelligent. The court asked Boudreaux why he had indicated that he understood all of the elements of a jury trial if he did not, in fact, understand them. Boudreaux said that he "should not have" indicated that he understood the nature of a jury trial. He said that he was "in [his] own emotions" when he waived his right to a jury trial and that he did not have a "full understanding" of what the court explained to him.

The court reminded Boudreaux that on May 3, 2023, he had said that no one had "threatened . . . , used any force [on], or put any pressure on" him to waive his right to a jury trial. Boudreaux stated that "[t]hat was incorrect." When the court asked Boudreaux who threatened him or put pressure on him to waive his right, Boudreaux asserted that he was referring not to any specific person but to "[t]he pressure of the litigation . . . itself."

Boudreaux told the court that he believed his waiver was "a reversible thing[.]" He explained that he "never wanted to . . . plead guilty" and that he "did not want to waive [his right to a] jury trial." He claimed that he tentatively agreed to plead guilty and to waive his right to a jury trial because his attorney "told [him] it would be the better option just to make [the charges] go away[.]"

The court explained that a jury trial waiver is reversible "if there is good cause shown . . . and [if] it won't cause undue delay." The court noted that Boudreaux's bench trial was set to begin about a month later, on October 23, 2023, and "if it [was] a jury trial," "it might not be until next year that [the court has] three available days for a jury trial."

The court heard from the State, which opposed the withdrawal of Boudreaux's waiver. The State argued that it would have been inconvenient to the State, the court, and the victim to allow Boudreaux to withdraw his waiver.

The State also argued that Boudreaux had not made his request to withdraw his jury trial waiver in good faith. In support of its contention, the State read the transcript of a jail call that Boudreaux made to a friend on May 1, 2023, two days before the hearing at which Boudreaux expressed dissatisfaction with his attorney, but eventually agreed to a plea bargain. During the call, Boudreaux suggests to his friend: "I can fire [my attorney]. . . . Then they will appoint me another lawyer and apparently I can probably do this a couple of times." He told his friend:

> [M]aybe if by pushing this back, if [my attorney] decides she is not going to get me to plea and she ends up being fired, they will have to move the

> trial back and that will at least give me some time to get another [p]ublic [d]efender and then we will have to go through the case and I might be able to fire him too and by that time maybe we'll have a lawyer come in for the trial and motion on something.

"[I]t [was] clear," the State posited, that Boudreaux "entered into the plea agreement with . . . the thought [that] he could fire his attorney, he could withdraw his plea and keep this process going just to delay the whole process[.]" The State argued that the jail call negated any of Boudreaux's assertions that "he did not understand what was happening." In rebuttal, Boudreaux offered only that he "would actually like to hear" the recording because he did not "remember using those kinds of words."

The court ultimately denied Boudreaux's request to withdraw his jury trial waiver. The court found that Boudreaux was "gaming the system [and] trying to delay trial[.]" The court ruled that there was no good cause to allow Boudreaux to withdraw his waiver because the only reason he offered for withdrawal was that he "changed [his] mind or changed [his] strategy[.]" The court found that scheduling a jury trial would take "three or four months[,]" which would be "unreasonable[.]" The court did not find merit in Boudreaux's argument that he was coerced into waiving his jury trial right by his attorney. The court determined that any coercion that Boudreaux felt "[was] simply the pressure of facing the possibility . . . of 86 years in prison" if he was found guilty of all the crimes with which he was charged. **Trial, Sentence, and Appeal**

Boudreaux's bench trial began on October 23, 2023. His attorney represented him through every phase of the trial.

On October 25, 2023, the court found Boudreaux guilty of sexual abuse of a minor. The court, however, acquitted him of sexual abuse of a minor as a continuing course of conduct, because the court was "not persuaded beyond a reasonable doubt that a beginning point [for the abuse]" was before the victim's fourteenth birthday.[4]

On January 10, 2024, the court sentenced Boudreaux to 20 years of incarceration with all but 12 years suspended. The court ordered him to register as a Tier III sex offender upon his release from incarceration.[5]

Boudreaux noted a timely appeal.

QUESTIONS PRESENTED

Boudreaux poses four questions, which we quote:

1. Did the circuit court err in accepting Mr. Boudreaux's jury trial waiver without informing him that if he elected to waive his right to a jury trial, he would only be permitted to change his election upon the court's finding of good cause?

2. Did the circuit court err in failing to allow Mr. Boudreaux to withdraw his previous jury trial waiver?

3. Did the circuit court improperly deny Mr. Boudreaux his right to the assistance of counsel?

4. Did the circuit court err in failing to comply with Md. Rule 4-215(e)?

[4] Maryland Code (1984, 2012 Repl. Vol.), § 3-315(a) of the Criminal Law Article, states that "[a] person may not engage in a continuing course of conduct which includes three or more acts that would constitute [sexual abuse of a minor] . . . with a victim who is under the age of 14 years at any time during the course of conduct."

[5] A Tier III sex offender remains on the registry for life. Md. Code (2001, 2018 Repl. Vol.), § 11-707(a)(4)(ii) of the Criminal Procedure Article.

We answer "Yes" to question four. In view of our disposition of that issue, it is unnecessary to address Boudreaux's remaining questions.

STANDARD OF REVIEW

"Our interpretation of the Maryland Rules is a question of law." *State v. Weddington*, 457 Md. 589, 598 (2018) (citing *Williams v. State*, 435 Md. 474, 483 (2013)). To determine if the trial court complied with Rule 4-215(e), we review its ruling without deference. *Id.* at 598-99 (citing *State v. Graves*, 447 Md. 230, 240 (2016)).

DISCUSSION

1. Rule 4-215(e)

Md. Rule 4-215(e) dictates the procedure trial courts must follow when a defendant requests to discharge counsel:

> 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.

A trial court is to employ the rule like a flowchart. The defendant triggers the rule with step one: the "defendant expresses a desire to discharge [the defendant's] counsel in order to substitute different counsel or to proceed self-represented[.]" *State v. Taylor*,

431 Md. 615, 631 (2013). Once the defendant initiates step one, the court must initiate step two: "[T]he trial judge's duty is to provide the defendant with a forum in which to explain the reasons for [the] request." *Id.* (citations omitted). After allowing the defendant to explain the reasons for the request, the court proceeds to step three: it determines whether the defendant's reasons are meritorious or unmeritorious.

At this point, the paths of the flowchart diverge. If the court determines that the defendant's reasons are meritorious, "it must (1) permit the discharge; (2) order a continuance, if necessary; and, (3) '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.'" *Id.* (quoting *Pinkney v. State*, 427 Md. 77, 86 (2012)). If, on the other hand, the court determines that the defendant's reasons are unmeritorious, "it must first inform 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.'" *Id.* at 632 (quoting Md. Rule 4-215(e)).

Rule 4-215 exists to "'protect [the] most important fundamental right to the effective assistance of counsel, which is basic to our adversary system of criminal justice.'" *Williams v. State*, 435 Md. 474, 485 (2013) (quoting *Parren v. State*, 309 Md. 260, 281 (1987)). The rule "gives practical effect to the [d]efendant's constitutional choices." *Williams v. State*, 321 Md. at 273. It requires the defendant to decide whether to continue with present counsel or proceed without counsel. *Id.*

Because the rule concerns a fundamental right and requires the defendant to make crucial decisions about the shape that the defendant's case will take, we hold trial courts to a high standard when a defendant triggers the rule. "[W]e have held consistently that the requirements of the Rule are mandatory . . . [and] the mandates of [the Rule] require strict compliance." *Pinkney v. State*, 427 Md. at 87; *see also State v. Weddington*, 457 Md. at 600; *Williams v. State*, 435 Md. at 486; *State v. Hardy*, 415 Md. 612, 621 (2010); *Johnson v. State*, 355 Md. 420, 446 (1999); *Hargett v. State*, 248 Md. App. 492, 502 (2020). "Thus, a trial court's departure from the requirements of Rule 4-215 constitutes reversible error." *Pinkney v. State*, 427 Md. at 88.[6]

2. Boudreaux's Case

"Any statement that would reasonably apprise a court of [a] defendant's wish to discharge counsel" is sufficient to trigger Rule 4-215(e), regardless of whether the statement comes from the defendant or the defendant's attorney. *State v. Davis*, 415 Md. 22, 32 (2010). Boudreaux unequivocally triggered Rule 4-215(e) on May 3, 2023.

In this case, both Boudreaux and defense counsel made statements that were sufficient to put the court on notice that it should initiate a Rule 4-215(e) inquiry. Almost immediately after the court called Boudreaux's case, he informed the court that he did not

[6] Maryland's highest court has stated that violations of Rule 4-215 "are not subject to harmless error analysis." *Lopez v. State*, 420 Md. 18, 31 (2011). This Court has held that a court's failure to ensure, at the defendant's first appearance without counsel, that the defendant has received a copy of the charging document as required by Md. Rule 4-215(a)(1) may be harmless error. *Muhammad v. State*, 177 Md. App. 188, 255 (2007). The present case does not concern an alleged violation of this component of Rule 4-215.

"feel like [he was] being represented properly." The court attempted to assuage Boudreaux's concerns by suggesting to him that the motions hearing would resolve some of his evidentiary gripes. Shortly after that brief exchange, defense counsel reintroduced the issue of Boudreaux's dissatisfaction with her services: "He advised me that he didn't feel like he was being represented properly and I think he told Your Honor that. So I just want to make sure that is not an issue at this point."

Either statement alone would have triggered Rule 4-215(e). In *State v. Campbell*, 385 Md. 616 (2005), the Court held that statements such as: "I don't like this man as my representative" and "[w]e had conflicts way before this ever started[]" were sufficient to trigger the rule. *Id.* at 632. Boudreaux's similar statements were enough to alert the trial court that it needed to follow the Rule 4-215(e) flowchart.

The court did initiate step two of the rule after defense counsel asked it to make sure Boudreaux's dissatisfaction was "not an issue[.]" As mentioned previously, the court's duty at this stage is to "provide the defendant with a forum in which to explain the reasons" for the request to discharge counsel. *State v. Taylor*, 431 Md. at 631. The court provided Boudreaux a forum by asking him: "Mr. Boudreaux, if you don't believe that you have been represented properly why don't you believe you have been represented properly?" Boudreaux's response to the court's question indicated that he was upset with his attorney primarily because she disagreed with him that he had evidence that he was "the victim in this." He claimed that he "had done a good bit of homework . . . and . . . brought a set of evidence" that showed that he "was actually the one that [was] attacked."

He told the court that this alleged evidence was "just being dismissed" by defense counsel.

At this point, the court was obligated to proceed to step three of the Rule 4-215(e) inquiry, i.e., to determine whether Boudreaux's request was supported by meritorious reasons.

The State concedes that the court did not explicitly perform this step. It contends that the court, instead, "implicitly determined" that Boudreaux's reasons were unmeritorious. It argues that "further advisements of Rule 4-215(e) were not triggered because the court did not permit [Boudreaux] to discharge counsel." We are not convinced by the State's argument.

To begin with, even if a court provides the defendant a forum in which to explain the reasons for a discharge request, the record "must 'be sufficient to reflect that the court actually considered th[e] reasons" given by the defendant.'" *State v. Taylor*, 431 Md. at 631 (quoting *Pinkney v. State*, 427 Md. at 93-94) (further citation and quotation marks omitted). Yet the record of the proceedings on May 3, 2023, contains nothing to indicate that the court considered Boudreaux's explanations about why he was dissatisfied with his attorney. After Boudreaux explained why he did not feel that his attorney was representing him properly, the court's only response was that the upcoming motions, if granted, might alleviate some of his concerns. The court began addressing those motions without giving Boudreaux any answer as to whether his reasons for desiring the discharge of his attorney had merit.

The contrast between the court's actions in Boudreaux's case and the court's actions in *Hargett v. State*, 248 Md. App. 492 (2020), illustrates the flaw in the State's argument that the court implicitly found that Boudreaux's reasons were unmeritorious. In *Hargett*, shortly before jury selection was to begin, the defendant expressed dissatisfaction with his attorney, and the court initiated a Rule 4-215(e) inquiry. *Id.* at 498. The court allowed the defendant to explain his reasons for desiring a discharge, but did not explicitly inform the defendant on the record that his reasons for discharging counsel were unmeritorious. *Id.* at 499-500. During the discussion of the defendant's discharge request, the court informed the defendant that, if he discharged counsel, his trial "'would not be postponed'" and he would need to "'represent [himself] in trial.'" *Id.* at 499.

On appeal, this Court held that the circuit court adequately conducted the Rule 4-215(e) inquiry even though the court did not expressly inform the defendant on the record that his reasons for discharging his attorney were unmeritorious. *Id.* at 510-11. We reasoned that the circuit court "implicitly found that" neither of the defendant's reasons for discharging his attorney were meritorious, *id.* at 510, because the court "advised [him] that his case would not be postponed and that, if he chose to discharge his counsel, he would have to represent himself." *Id.* at 511. In other words, we reasoned that the circuit court must have found the defendant's reasons to be unmeritorious because the court did what Rule 4-215(e) requires it to do once it has made such a finding. "The court complied with Rule 4-215(e) by so advising [the defendant]." *Id.*

In Boudreaux's case, by contrast, the court did not so advise him that, if he chose to discharge his attorney, the case would proceed without a postponement and he might be forced to represent himself. We view the failure to give any such advice as an indication that the court made no decision at all. The court made no finding, implicit or otherwise, as to the merits of Boudreaux's reasons for discharging counsel.

Furthermore, because the court made no finding about whether Boudreaux's reasons were meritorious, it did not take the next steps mandated by Rule 4-215(e): if the reasons are meritorious, permitting the discharge of counsel, continuing the action if necessary, and advising 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; *or* if the reasons are not meritorious, permitting the discharge of counsel but only after 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.

The State argues that, even if the court failed to decide the merits of Boudreaux's request to discharge counsel, "it was acceptable" for the court "to do so" because, it says, "those concerns were obviated later during that same hearing when [Boudreaux] determined to take a plea." The State also argues that the court's decision to rule on Boudreaux's request at a later date was acceptable because the court "promptly turned to this concern at the very next hearing when [Boudreaux] indicated that he did not wish to plea, resolving it when he indicated that he did not wish to discharge his counsel." The

State does not explain how the concerns about legal representation were "obviated" at the end of the hearing on May 3, 2023, if the court is to be credited for "promptly turn[ing] to this concern at the very next hearing." In any event, we disagree that "it was acceptable" for the court to defer the completion of the Rule 4-215(e) inquiry while defense counsel and Boudreaux were attempting to decide whether he would accept the plea offer and waive his right to a jury trial.

At the hearing on May 3, 2023, Boudreaux and his attorney were at war with one another because of his attorney's insistence that he should accept the plea offer (and waive his right to a jury trial) and Boudreaux's reluctance to do so. Before the hearing could begin on May 3, 2023, defense counsel asked the court for a recess so that she could confer with Boudreaux. After the recess, Boudreaux began by telling his attorney, "I really don't like that you're representing me," and "I don't want to plead guilty." Moments later, he told the court that he did not "feel like [he was] being represented properly." Boudreaux insisted that he "would like to go to trial"—i.e., that he did not want to plead guilty. A few days after the hearing, he reportedly wrote that his attorney "had bullied him into accepting a jury trial waiver in the plea bargain that [the parties] had come up with." One may infer from the record that Boudreaux's dissatisfaction with his attorney stemmed from his aversion to accepting the State's plea offer and the concomitant waiver of his right to a jury trial.

The court's deficient Rule 4-215(e) inquiry meant that defense counsel was still Boudreaux's attorney when the State announced that it would leave its plea offer open

only until the end of the day. Although the issue of whether she would continue to represent him remained unresolved, defense counsel expressed an intention to force Boudreaux into making a decision on the plea when she informed the court that she "wanted to corner [Boudreaux] as to his position on this offer." Shortly thereafter, while the issue of who would represent him was still outstanding, Boudreaux decided to accept the plea offer and to waive his constitutional right to a jury trial.

That Boudreaux returned to court six days later and said that he did not want to discharge his attorney "at [that] time" is of no matter. We have no way of knowing whether Boudreaux would have decided to proceed without counsel, rejected the plea deal, and refused to waive his right to a jury trial on May 3, 2023, had the court found that his reasons were unmeritorious and "advised [him] of his option to proceed without counsel as well as the disadvantages of representing himself." *State v. Weddington*, 457 Md. at 606. And even though Boudreaux told the court in September that he did "not intend to waive counsel" at that time, he maintained at the hearing on May 9, 2023, that he was "ushered [into] actually just tak[ing] this plea." Boudreaux's desire for legal representation after he sought to rescind his waiver of the right to a jury trial does not allow us to ignore the fact that, by failing to complete the Rule 4-215(e) inquiry on May 3, 2023, the circuit court forced him to make the critical decision to plead guilty and to waive his right to a jury trial while the issue of representation remained unresolved.[7]

[7] Despite Boudreaux's expressed desire for some legal representation after he had waived his right to a jury trial, the record reflects continued strife between him and his appointed counsel throughout the proceedings. On September 1, 2023, defense counsel

The State argues that "the better reading" of Rule 4-215(e) "and the case law is that a circuit court may defer a complete resolution of a discharge of counsel request until a later hearing, provided it is resolved before trial." In support of its argument, the State cites *State v. Weddington*, 457 Md. 589, 605 (2018).

In *Weddington*, the State argued that, although the court had not complied with Rule 4-215(e) during the trial, the error was harmless because the court had conducted a post-trial hearing at which it determined, in substance, that the defendant had no meritorious basis to discharge his attorney. *See id.* at 605. The Court rejected the State's contention, holding that "[a] post-trial ruling on [a] defendant's reasons for his request cannot cure a violation of the Rule." *Id.* at 606. In so doing, the Court adopted this Court's rationale that "a post-trial hearing on a request to discharge counsel does not provide a defendant the opportunity to decide whether he wants to discharge counsel and represent himself." *Id.* "That decision," the Court wrote, "was already made for him by the Circuit Court's failure to inquire into his reasons for discharge and failure to advise him of the consequences of proceeding without counsel." *Id.*

The State reads *Weddington* to say that the court can defer the completion of the Rule 4-215(e) inquiry until any time before the trial is over. We disagree with the State's

asked the court to inquire, once again, "about whether [Boudreaux] wishe[d] to represent himself." (The court did not so inquire.) And on September 20, 2023, the court placed Boudreaux in the unusual situation of arguing his own self-authored motion because his attorney, who was present in the courtroom, refused to argue the motion or to serve as standby counsel.

reading of that case. *Weddington* holds that a post-trial hearing cannot cure the consequences of the circuit court's failure to conduct the Rule 4-215(e) inquiry during the trial itself. *Weddington* does not hold that a circuit court can defer all or part of the Rule 4-215(e) inquiry as long as it ultimately completes the inquiry (or the defendant reasserts a desire for legal representation) some time before the end of the trial. In fact, to "insure against a defendant's suspected strategic maneuvering" (*id.* at 607), *Weddington* warns against taking what the Court called a "'wait-and-see approach.'" *Id.* at 606-07 (quoting *Williams v. State*, 435 Md. at 493). Thus, if anything, *Weddington* counsels against deferring the completion of the Rule 4-215(e) inquiry.

For purposes of this case, however, we need not decide whether a court may ever defer the completion of the 4-215(e) inquiry until some later point in the proceedings. In the circumstances of this case, the court erred by failing to complete the Rule 4-215(e) inquiry while Boudreaux was being required to make critical decisions about whether to accept a plea offer and to waive his right to a jury trial—decisions about which he and his attorney were at odds and which had prompted him to express dissatisfaction with her. The court effectively made the decision for Boudreaux by failing to make a finding about whether he had a meritorious reason to discharge counsel and, if he did not, by failing to inform him of the consequences of proceeding without counsel. *See id.* at 606.

The circuit court's misapplication of Rule 4-215 cannot be categorized as harmless error. *See, e.g.*, *id.*; *Lopez v. State*, 420 Md. 18, 31 (2011); *Snead v. State*, 286 Md. 122,

132 (1979). Consequently, we must vacate the convictions and remand the case for a new trial.[8]

Because the court's error occurred before Boudreaux waived his right to a jury trial, Boudreaux's waiver was defective and holds no force or effect. On remand, he is entitled to a jury trial.

In view of the jail call in which it was later revealed that Boudreaux intended to discharge his attorney in order to get a postponement, he is obviously not an attractive candidate for judicial intervention. None of that means, however, that the court could cut short the Rule 4-215(e) inquiry, especially when Boudreaux was under pressure to decide whether to plead guilty and waive his right to a jury trial. Even when a defendant plainly has no meritorious reasons for discharging defense counsel, Rule 4-215(e) still requires the court to make a finding that the reasons are unmeritorious and to inform the defendant of the consequences of that finding. Our cases are replete with defendants who were "motivated less by dissatisfaction with [the defense] attorney than by an unjustified desire for delay." *See*, *e.g.*, *Fowlkes v. State*, 311 Md. 586, 607 (1988). The law affords those

[8] In view of our disposition of this issue, we need not consider whether the court also erred in failing to conduct any Rule 4-215(e) inquiry at all at the hearing on September 1, 2023, when the court failed to act in response to defense counsel's request that it "inquire" of Boudreaux about whether he "wishe[d] to represent himself at th[at] juncture."

defendants the benefit of a full Rule 4-215 inquiry to the same extent that it affords that benefit to defendants who have a sincere disagreement with counsel.[9]

JUDGMENT OF THE CIRCUIT COURT FOR TALBOT COUNTY VACATED; CASE REMANDED TO THAT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY TALBOT COUNTY.

[9] *Cf. State v. Camper*, 415 Md. 44, 57-58 & 57 n.6 (2010) (holding that even when a defendant was assumed to have had actual knowledge of the maximum penalties he faced, the trial court's failure to advise him of the penalties in violation of Rule 4-215(a)(3) required automatic reversal); *Moten v. State*, 339 Md. 407, 409, 412 (1995) (holding that even when a self-represented defendant knew what the maximum penalties were, the trial court's failure to inform him of the penalties in violation of Rule 4-215(a)(3) required automatic reversal); *Webb v. State*, 144 Md. App. 729, 742, 745-46 (2002) (holding that even when the prosecutor had informed the defendant of the maximum penalties in open court, the judge's failure to inform him of the penalties in violation of Rule 4-215(a)(3) required automatic reversal).