Circuit Court for Harford County
Case Nos.: C-12-CR-22-000359, 300

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 2188, September Term, 2022
&
No. 572, September Term, 2023

TROY EUGENE MAYE

v.

STATE OF MARYLAND

Berger,
Arthur,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: March 22, 2024

* 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 Maryland Rule 1-104(a)(2)(B).

On January 31, 2023, in case number C-12-CR-22-000359, Troy Eugene Maye, appellant, entered a plea of not guilty to an agreed statement of facts in Circuit Court for Harford County to one count of unlawful possession of a regulated firearm. On February 1, 2023, the court sentenced him to five years' imprisonment.

Thereafter, appellant noted a direct appeal[1] to this Court raising the following questions for our review which we have re-phrased for clarity.[2]

> I. Whether the circuit court erred in denying appellant's motion to suppress a firearm as fruit of an unlawful search of a motel room.
>
> II. Whether the circuit court abused its discretion in denying appellant's request for substitute counsel on the basis of a finding that appellant had not demonstrated a meritorious reason for seeking to discharge counsel.

[1] This Court has consolidated two cases for this appeal, No. 2188, September Term, 2022 and No. 572, September Term, 2023. Those appeals stem from otherwise unrelated circuit court case numbers C-12-CR-22-000359 & C-12-CR-22-000300, respectively. Appellant tells us that there is nothing on appeal in this Court stemming from the case ending in 300 (case No. 572 in this Court). According to appellant, the only reason that case number became involved in this appeal is because, when filing a *pro se* application for leave to appeal from the denial of his request to discharge counsel, appellant used the wrong case number. It appears that this Court consolidated the two cases out of an abundance of caution.

[2] Appellant's questions were phrased as follows:

> 1. Did the motions court err by denying [a]ppellant's motion to suppress?
>
> 2. Did the circuit court abuse its discretion by denying [a]ppellant's request for substitute counsel?

For the reasons stated below, we answer those questions in the negative and, therefore, we shall affirm the judgment of the circuit court.

BACKGROUND

As noted earlier, appellant pleaded not guilty to an agreed statement of facts to one count of unlawful possession of a regulated firearm. The agreed upon facts placed on the record during that proceeding were as follows:

> On April 10th, 2022 at approximately 2120 hours, members of the Aberdeen Police Department responded to the Super 8 Motel located at 1008 Beards Hill Road here in Harford County, Maryland. The reason for that was a 911 call. That caller stated that there was an African-American gentleman [waving] or brandishing a handgun in that area.
>
> Subsequent to that call, the members of the law enforcement to include Officer Sean Tenny and Officer James Haddix responded to the Super 8 Motel[.] Upon making it to that location they did make contact with Mitunkumar Shah. The State would call Mr. Shah. He would testify that he, in fact, was the manager of that location on this date and time. He did have an opportunity to talk to law enforcement. Subsequent to their conversation they reviewed the surveillance video at that location. Upon reviewing the surveillance video, they did identify the [d]efendant later identified as Troy Eugene Maye, the [d]efendant seated to the left of counsel, being in front of the motel or Super 8 at which point he was conversing with other individuals.
>
> Subsequent to that conversation, he took out a semiautomatic handgun from his person, [waved] it in front of another gentleman, at which point the conversation ended. Mr. Maye then enters and returns into the motel and is seen going into Room 219.
>
> Officers had a conversation with Mr. Shah. Mr. Shah identified that an individual by the name of Sekeana Baldwin is the registered tenant of Room 219. Subsequent to that, Ms. Sekeana Baldwin identified that the [d]efendant, Mr. Troy

Maye, was currently staying at that room with her permission. Mr. Shah would also confirm that, in fact, he does know and has identified Mr. Maye as, in fact, staying at that room as well along with Ms. Sekeana Baldwin.

Subsequent to that, Ms. Sekeana Baldwin was called by law enforcement at which point Ms. Baldwin accompanied law enforcement to Room 219 where she gave permission to enter the room and search that room. Subsequent to opening the door, the [d]efendant was identified. Mr. Maye was inside standing on top of the bed. He was ordered to exit that room at which point he somewhat resisted and then he was ordered to exit that room at gunpoint.

Subsequent to that, Mr. Maye was placed under arrest for an outstanding arrest warrant and also for the identification of brandishing the weapon outside of the Super 8 Motel.

Search incident to the [m]otel room was that [sic] a Taurus Arms GZC nine-millimeter semiautomatic handgun … was located in a bag on the bed just in front of Mr. Maye. That bag was located within arm's reach of Mr. Maye. That gun was also the exact gun that was identified and viewed through the surveillance video of the Super 8 Motel that he used to brandishing [sic] while he was outside of that just shortly thereafter.

A subsequent check of Mr. Maye realized [sic] that he is a prohibited person from owning, possessing or having control of the handgun. He has a 2015 conviction for conspiracy to rob, a 2006 conviction for assault second, a 2001 conviction for possession with intent to distribute.

The Taurus Arms GZC was collected and submitted to Harford County Sheriff's Office for analysis. The State would call Ms. Jessica Orchowitz and she would testify that she, in fact, received the handgun in normal course of evidence, did test fire that handgun and would testify that, in fact, that handgun was operable.

Given the video that positively identified Mr. Maye as having possessed and brandished the weapon, and given that the search incident to the room Mr. Maye was standing over top of the bag that contained the handgun, and that the handgun

> was operable, the [d]efendant would be positively identified as having control, custody and possession of the Taurus Arms GZC nine-millimeter which is a regulated firearm.
>
> All of the events happened in Harford County and that would be the State's case, Your Honor.

We shall relate additional facts as they become germane to our discussion below.

DISCUSSION

I.

Prior to trial, appellant moved to suppress the firearm from evidence on the basis that the police lacked the authority to conduct the warrantless search of the bag containing the handgun. On appeal, appellant challenges the court's denial of his motion. During the hearing on appellant's motion to suppress evidence, the following evidence was adduced:

Officer Tenny testified that on April 10, 2022, at around 9:20 p.m., he, along with other police officers, went to a Super 8 motel in response to an anonymous call reporting that someone at the motel was "armed with a handgun." Upon arrival, the officers spoke with the front desk clerk who allowed them to review surveillance video footage from that day. That video footage showed a person, identified as appellant, brandishing a handgun outside the front entrance to the motel. Specifically, Officer Tenny testified that the video showed the following:

> I saw [appellant] outside the location with several other people around. I could actually see my patrol car parked across the street, but my view was obstructed. [Appellant] then pulls out a semiautomatic handgun from his dip and begins displaying it in front of the group of people. He kept putting it back in his pants and taking it out. He then finally pulled it out and pointed it. Based on the angle of the video, it looked like he was pointing it at someone's face. The individual then assaulted

> [appellant]. Everyone then went to [room] 219 and another small group left the location in an SUV.

Thereafter, the police ran appellant's name and birthdate "through dispatch" and learned that appellant had an active warrant for his arrest. The police asked the motel clerk to contact the "key holder" *i.e.*, the person who rented room 219. After the clerk contacted the "key holder," Sekeana Baldwin, and after the police explained the situation to her, she confirmed that appellant and her uncle were still in the motel room. At that point, at the direction of the police, the clerk called the room and asked appellant to come out. Appellant declined that invitation. The police then asked the "key holder" for permission to enter and search the room, and she consented.

The police, accompanied by Baldwin, then approached room 219 and had her knock on the door. Baldwin's uncle answered the door and, at the request of the police, came outside. Appellant, who remained in the room, tried to close the door on the police officers as they attempted to enter the room. The police pushed open the door and appellant "retreated over to the bed." Prior to complying with commands from the police to appellant for him to come to them, appellant looked down several times at a blue reusable grocery shopping bag on the bed near him. After appellant complied with the police commands, the police handcuffed him, placed him under arrest, and removed him from the motel room. A subsequent search revealed a black handgun in the blue bag on the bed, which the police recovered.

The manager of the Super 8 motel, who was working the front desk on the night of appellant's arrest, testified at the suppression hearing that he knew appellant and Baldwin

because they lived at the motel from time to time. Although he seemed less than certain, he testified that Baldwin usually rented the rooms they stayed in, and that appellant did not rent the room at issue in this case.

Appellant testified that at the time of his arrest in April of 2022, he and Baldwin were in a relationship and they were living at the Super 8 motel, as neither of them had a permanent residence. He could not recall in whose name their motel room was rented, but he testified that he lived there with Baldwin.

Based on the foregoing, relying on *Georgia v. Randolph*, 547 U.S. 103 (2006), appellant argued that his refusal, as a cohabitant of the dwelling, to consent to permitting the police officers to enter the room – which was implicit in his attempt to close the door on them – trumped the fact that Baldwin consented to allowing the police inside the room and to searching it. The State argued that *Randolph* was distinguishable and that, in any event, the police lawfully entered the room to execute the warrant for appellant's arrest, and they lawfully searched the blue bag containing the pistol incident thereto.

In denying appellant's motion to suppress evidence, the court said the following:

> On April 10th, 2022 there was a report to the Aberdeen Police Department concerning someone brandishing a gun at the Super 8 Motel in the Aberdeen area. The Aberdeen Police Department reported to the scene of the Super 8 and viewed the video, which took some[]time.
>
> The identity of the [appellant] was accomplished by the police department on that date as he was apparently a known person identified as him brandishing the gun. At some point a gun was pointed at someone according to the testimony.
>
> I do find as fact that Ms. Baldwin was the sole renter and key holder of Room 219 and that she freely and voluntarily

> gave permission to the Aberdeen Police Department to search the room.
>
> [T]he Aberdeen Police Department also confirmed that before entering the room that the [d]efendant, whom they identified from the video, had an active arrest warrant out for his apprehension.
>
> I find as fact and law that the Aberdeen Police Department had the right to rely on the permission from Ms. Baldwin to, A, search the room; and, B, to arrest the [d]efendant on the active warrant that they knew was outstanding. The Aberdeen Police Department had the right to enter the room per the consent, the right and duty to arrest the [d]efendant on the warrant, and the right to search the bag which was within his reach and grasp at the time that he was apprehended.

STANDARD OF REVIEW

When reviewing the denial of a motion to suppress, "'we confine ourselves to what occurred at the suppression hearing,' which we view 'in a light most favorable to the prevailing party on the motion,'" here, the State. *Ford v. State*, 235 Md. App. 175, 185 (2017) (quoting *Lee v. State*, 418 Md. 136, 148 (2011)), *aff'd* 462 Md. 3 (2018). Accordingly, "we defer to the suppression court's findings of fact unless clearly erroneous" and will not therefore disturb such findings if there is any competent evidence in support thereof. *Carter v. State*, 236 Md. App. 456, 467 (2018). We will, however, "review the hearing judge's legal conclusions *de novo*, making our own independent constitutional evaluation as to whether the officer's encounter with the defendant was lawful." *Sizer v. State*, 456 Md. 350, 362 (2017).

CONTENTIONS

Appellant contends on appeal that the police lacked the authority to enter the motel room and search the blue bag they found on the bed because appellant never consented to the warrantless search and no other exceptions to the warrant requirement were met. He specifically relies on *Georgia v. Randolph, supra*, for the proposition that, without a search warrant, or some exception to the warrant requirement, the police have no constitutional right to search a house where one resident, who is present, consents to the search while another resident, who is also present, objects.

In response, the State, relying on *Payton v. New York*, 445 U.S. 573 (1980), argues that the police did not need anyone's consent to enter the motel room because they possessed a valid arrest warrant for appellant which permitted them to lawfully enter the motel room where they believed appellant to be. From that standpoint, relying on *Chimel v. California*, 395 U.S. 752 (1969) and its progeny, the State asserts that the police had the authority to search the blue bag incident to appellant's arrest.

In reply to the State's response, appellant, relying on *Arizona v. Gant*, 556 U.S. 332 (2009), argues that the police did not have the authority to search the bag incident to appellant's arrest because, by the time the police searched the bag, appellant had been handcuffed and removed from the room, and, as a result, the bag and its contents were no longer within appellant's lunge, reach, or grasp.

ANALYSIS

The Fourth Amendment to the United States Constitution, made applicable to the states by the Fourteenth Amendment, guarantees "[t]he right of the people to be secure in

their persons, houses, papers, and effects, against unreasonable searches and seizures[.]" U.S. Const. Amend. IV. In determining whether a search or seizure violates the Fourth Amendment, "[t]he touchstone of our analysis ... is always the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security." *Trott v. State*, 473 Md. 245, 254 (2021) (quotation marks and citation omitted). The Fourth Amendment does not, therefore, "prohibit all searches and seizures, just unreasonable ones." *State v. McDonnell*, 484 Md. 56, 78 (2023). Absent consent to enter, or some other exception to the warrant requirement, "searches and seizures inside a home without a warrant are presumptively unreasonable." *Payton*, 445 U.S. at 586.

"Consent searches are part of the standard investigatory techniques of law enforcement agencies" and are "a constitutionally permissible and wholly legitimate aspect of effective police activity." *Schneckloth v. Bustamonte*, 412 U.S. 218, 228, 231-32 (1973). Moreover, the police may search jointly occupied premises if one of the occupants consents. *United States v. Matlock*, 415 U.S. 164 (1974). In *Randolph*, 547 U.S. 103, the Supreme Court recognized an exception to that rule which is that the consent of one occupant is insufficient when another occupant is present and expressly objects to the search.

In *Randolph*, Janet Randolph left the marital home she shared in Georgia with her husband, Scott, and went to Canada to stay with her parents. She took their son and a few belongings with her. A few weeks later, she returned to the marital home. *Id*. at 106. Thereafter Janet and Scott had a domestic dispute and Scott took their son to a neighbor's house. Janet called the police and when they responded to the Randolphs' home, she

explained the foregoing history to them. *Id*. at 107. She also told them that her husband Scott was a "cocaine user whose habit had caused financial troubles[]" and that there were "items of drug evidence" inside the home. *Id*. Scott explained to the police that he had removed the child to the neighbor's house out of concern that his wife might take the child out of the country again. He also denied cocaine use and said that it was Janet who abused drugs and alcohol. *Id*.

The police then asked Scott for permission to search the house, "which he unequivocally refused." *Id*. The police then asked Janet for permission to search the house, "which she readily gave." *Id*. Janet then led the police to Scott's bedroom where they found and recovered a drinking straw with suspected cocaine on it. *Id*. The police then stopped the search and obtained a search warrant. During a subsequent search of the house, they obtained further evidence of drug use which formed the basis for the prosecution of Scott for possession of cocaine. *Id*. Before trial, Scott moved to suppress the evidence, as products of the warrantless search of his house "unauthorized by his wife's consent over his express refusal." *Id*.

Finding the search unlawful, the Supreme Court held that "a warrantless search of a shared dwelling for evidence over the express refusal of consent by a physically present resident cannot be justified as reasonable as to him on the basis of consent given to the police by another resident." *Id*. at 120.

In *Fernandez v. California*, 571 U.S. 292 (2014), the Supreme Court applied its holding in *Randolph* to a different set of circumstances, not entirely dissimilar from those in the present case, and upheld the lawfulness of the search in that case. In *Fernandez*, the

police were alerted that a suspect in a gang related robbery had just entered an apartment. As the police approached the apartment, they heard "screaming and fighting" emanating from within. *Id*. at 295. After the police knocked on the door, a woman named Roxanne Rojas answered, holding a baby. Rojas appeared to be crying, her face was red, she had a bump on her nose, and fresh blood on her shirt. *Id*. When the police asked Rojas to step outside the apartment so that they could conduct a protective sweep, Fernandez stepped forward and said, "You don't have any right to come in here. I know my rights." *Id*. at 296. Suspecting that Fernandez had assaulted Rojas, the police removed him from the apartment, placed him under arrest, and took him to the police station for booking. *Id*. About an hour later, the police returned to the apartment, sought and obtained Rojas' consent to search it, and recovered evidence to support charging Fernandez with, *inter alia*, various weapons offenses. *Id*.

Fernandez, relying on *Randolph*, challenged the lawfulness of the search on the basis that, even though he was not present when Rojas consented, he, as a co-tenant of the apartment, refused to consent to the search while he was still present. *Id*. at 297-98. The Supreme Court determined that the search was lawful because Fernandez was not present to object when Rojas later consented to the search. The Court noted that *Randolph* "went to great lengths to make clear that its holding was limited to situations in which the objecting occupant is present … [a]gain and again, the opinion of the Court stressed this controlling factor." *Fernandez*, 571 U.S. at 301.

The Court held that "an occupant who is absent due to a lawful detention or arrest stands in the same shoes as an occupant who is absent for any other reason." *Id*. at 303. In

addition, the Court declined to adopt Fernandez's argument that his refusal to consent lasted a reasonable time or until he changed his mind and withdrew his objection. *Id*. at 303-306.

While there are factual differences between what occurred in *Fernandez* and what occurred in the present case, we find them of little importance. The key common denominator between the two cases is the fact that the person objecting to the search was lawfully placed under arrest by police and therefore removed from the dwelling and, in our view, removed from the consent equation.[3] Perhaps the greatest difference between the two scenarios is that, in the present case, Baldwin gave the police permission to search the motel room *before* appellant objected, while in *Fernandez*, Rojas gave the police permission to search the apartment *after* Fernandez objected. In our view, the sequence of co-occupants' assertions of consent or refusal to consent to a police search is of little moment. It matters not, for example, whether the person objecting to the search "goes first" because, assuming both occupants are present, that occupant's refusal to grant consent trumps any other occupant's grant of consent.

Moreover, there is no indication from the record of the suppression hearing that the police knew appellant's status with respect to the motel room in question such that they would have had any reason to believe, beyond the fact of his mere presence in the motel room, that appellant had any authority, actual or implied, to object to the police entry and

[3] The transcript of the suppression hearing in this case does not reveal where appellant was during the search of the motel room. The record merely indicates that appellant was not in the room at the time of the search.

search of the room that would prevail over the consent to enter and search the room granted to them by Baldwin, who, as noted earlier, was found by the suppression court to be the "sole renter and key holder of Room 219" and who "freely and voluntarily gave permission to the [police] to search the room."

Notably, *United States v. Parkins*, 92 F.4th 882 (9th Cir. 2024) is instructive. There, the police had lawfully removed Parkins from the doorway of his apartment and escorted him downstairs. *Id.* at 887. Under those circumstances, Parkins argued that he was still present within the contemplation of *Randolph*. The Ninth Circuit Court of Appeals disagreed and concluded that a defendant can validly object to a search of his residence only if he is "'standing at the door and expressly refusing consent.'" *Id.* at 887 (quoting *United States v. Jones*, 861 F.3d 638 (7th Cir. 2017)). In addition, Parkins never expressly refused consent to search his apartment. Rather, Parkins merely instructed his girlfriend not to admit the police officers. According to the court, as such, Parkins "never told the officers 'directly' that he did not want them in the apartment and Parkins's pleas that the officers not enter the apartment were '[a]t best ... an implicit refusal' to consent to the search." *Id.*

Clearly, the police lawfully entered the motel room to execute the warrant for appellant's arrest. Moreover, the police lawfully arrested him, and they lawfully removed him from the motel room. Once the police had done all of that, they were left with Baldwin's consent to search the motel room. There is no indication from the record that the police even asked appellant for any consent to enter or search the motel room.

Under the circumstances present in this case, the appellant's attempt to shut the door on the police, at best, amounted to an express refusal to consent to their entry into the motel room. This refusal was however irrelevant as the police had the authority, at the very least, to enter the room and arrest appellant. Accordingly, under the circumstances of this case, the search of the blue bag containing the pistol was reasonable under the Fourth Amendment and, therefore, the suppression court did not err or abuse its discretion in denying appellant's motion to suppress evidence.[4]

II.

Appellant contends that the trial court abused its discretion in denying his request to discharge his lawyer on the day trial began on the basis that appellant's stated reasons for discharging counsel were non-meritorious.

On the day trial began, the court held a pre-trial "status" hearing in appellant's case wherein several matters were discussed, including, among other things, appellant's request to discharge his trial counsel. Near the outset of that hearing, appellant requested a "*Marsden* hearing" and explained that he sought to obtain substitute counsel.[5] When the court inquired "who is it that you have in mind?" appellant responded, "if me and my public defender couldn't get along, wouldn't they appoint me a panel attorney?" The court then

[4] Given our holding, we need not reach the State's and appellant's arguments with respect to whether the search was lawfully conducted incident to appellant's arrest.

[5] In *People v. Marsden*, 465 P.2d 44 (1970), the California Supreme Court held that the trial court's denial of a criminal defendant's motion to substitute new counsel without giving the defendant the opportunity to state reasons for the request deprived the defendant of the right to effective assistance of counsel.

explained to appellant that his lawyer from the Office of the Public Defender (OPD) "is probably one of the most qualified Public Defenders in that office." With the understanding that it was within the court's discretion to permit appellant to discharge his counsel and to appoint substitute counsel, and that OPD would likely not assign substitute counsel, the Court asked appellant to state his reasons for wanting to discharge his counsel.

After being placed under oath, appellant explained that he had three pending criminal cases and his attorney had been assigned to two of them, and likely would be assigned to the third. Broadly, he outlined three areas of concern: (1) that he disagreed with his attorney's approach to his bail review hearing; (2) that his attorney was generally unprepared and not diligent in communicating, and (3) that his attorney had performed deficiently on appellant's motion to suppress evidence.

With respect to the bail review, appellant testified that, due his "background and the seriousness of [his] charges," he believed that the court would "want some type of security or assurance." As a result, according to appellant, his attorney agreed to request, during the bail review proceedings, that the court consider placing appellant in the "Hope program" and be monitored by GPS. Appellant said that, rather than make that agreed-upon request, his counsel asked the court to release appellant on his personal recognizance, which "shocked" him because his attorney's "tactics made no sense."

Appellant next recounted the difficulties he claimed to have contacting his attorney and explained that he filed a grievance against OPD because of it. After the Attorney Grievance Commission explained that appellant could not file a grievance against the entire OPD, appellant's sister filed a grievance against the attorney. According to appellant, his

counsel told appellant's sister that appellant should hire an attorney, which appellant took to mean that "[his attorney] was not trying to represent [him]." He said that his attorney urged him to plead guilty against his wishes.

With respect to the attorney's performance on the motion to suppress evidence, appellant said that his counsel did not initially issue a subpoena for the motel manager, which caused a postponement of the suppression hearing and of trial. According to appellant, those postponements caused appellant to "waive *Hicks*."[6] He also said that the attorney was not prepared for the hearing on the motion to suppress evidence and declined to make certain arguments during the hearing on it.

Appellant concluded with the following:

> Given all the evidence I have presented, [the attorney's] court tactics, alternative ways to resolve matters … discuss the case with me in detail, and adequate preparation and adequate facts of the laws of ways to resolve my case, lack of interest in my case, I had to file for my own motion in discoveries, being charged with postponements several times, as the State's Attorney stated yesterday, and I had to waive my *Hicks* because [the attorney] filed late for witnesses, not introducing evidence for my defense, I'm hoping Your Honor will provide me with another attorney. Thank you.

The court then heard from trial counsel in response to appellant's assertions of his deficient performance. The attorney said that, consistent with his general practice, once the case was indicted, he filed for another bail review in circuit court. Counsel explained

[6] This is a reference to the so-called "*Hicks* rule" which, pursuant to a statute and a court rule, require a criminal trial in a circuit court to commence within 180 days of the first appearance of the defendant or defense counsel in that court. That deadline is known as the *"Hicks* date." *State v. Hicks*, 285 Md. 310 (1979).

that he thought he had asked for home detention, because his usual practice was to request "release on recognizance, personal home detention with conditions, or a reasonable bail." Although the attorney testified that he "asked for all three" in appellant's case, he conceded that he "may have forgotten to mention the home detention" and that he would "have to go back and listen to" the transcript. Nevertheless, counsel testified that, while he hoped that appellant might get bail or home detention, "the point is moot" because the judge who heard the bail review "did the risk assessment," and "he rated [appellant] the highest rating." The attorney "wouldn't say it's nil" when estimating appellant's realistic chance of getting home detention, but he did describe it as a "long shot."

Counsel explained that appellant's "big problem[]" was that he had three separate criminal cases. In one of his cases, he "told [appellant] if this case goes to trial, chances are he'll be found not guilty" because, while appellant had been accused of car theft, the victim later made statements that indicated that he had permission to drive the vehicle in question. He explained to appellant that "chances are this case is not the case you should be worrying about" and explained to appellant's sister that "we really don't have to worry about witnesses in that case[,]" although he did subpoena witnesses in that case.

Turning to the suppression hearing, the attorney explained that "[e]ven if the defense was successful at the suppression hearing, it would not have been dispositive of the case at the motel" because there was other evidence linking appellant to the gun, including the surveillance footage. The attorney testified that, while he understood that appellant was upset about the outcome of the hearing, he explained that the "best way of proceeding, or the way I think is probably the best way of proceeding, better way, would be to take a plea

and to either do a conditional plea or a not guilty agreed statement of fact, and he could appeal the results of the suppression hearing[.]" Counsel explained that this was preferable to have two "really, really bad outcome[s]," particularly in light of the State's plea offer to lower the gun charge to a misdemeanor. While the attorney testified that "[appellant] may feel like I did not work fast enough," counsel explained that his office is a "shared resource," requiring defendants to be patient.

Regarding his preparation for trial, counsel explained that he met with appellant "[s]ix, seven times, each one probably lasting at least an hour" and "reviewed the video" with him. Maye's attorney explained "one of the reasons for the confusion that [appellant] has … he wanted me to subpoena the managers at the [motel] immediately, and I said, well, at first I have to go talk to them before I go subpoena anybody, okay, because I have to find out what they have to say." When the attorney had a day without any courtroom proceedings, he drove to the motel, interviewed two individuals, came back, and prepared subpoenas for them.

The court then gave appellant the opportunity to respond to Maye's counsel's version of events. Appellant said that he became upset with his attorney when he learned that his attorney had visited other inmates on his tier, but not him, which led him to file the grievance. Appellant said that it did not seem like his attorney was "ready at [his] suppression hearing." He said that his counsel "would not introduce the video" of the officer's body camera showing their interaction with Baldwin, which he asserted showed that she never consented to letting the police enter and search the motel room.

Counsel offered to "clear it up" and testified that he listened to the video from the body worn camera "multiple times" but could not make out Baldwin's words. The attorney then stated that he "actually inquired with [appellant] about whether [he] should subpoena [Baldwin], and that's all [he's] going to say about that."

The court asked counsel how long he had been employed by OPD and counsel responded that he had been in their employ for about fifteen years and had known appellant in that capacity since "probably about 2007 or 2009."

The court then found that appellant had not presented any meritorious reasons to discharge his counsel, as follows:

> THE COURT: Okay. So I pulled up the docket entries for the case that's going to trial. C-12-CR-22-359. And going through the docket entries, [Maye's counsel] entered his appearance on April 27th of 2022. And he filed a petition for a bail review May 6th of 2022. The State objected to it.
>
> It was set for a hearing and a hearing was held in front of Judge, I believe, Ishak of this court on May 16th of 2022. Judge Ishak ordered – denied the request for bail and ordered that you be held without bond.
>
> So, the decision as to whether you receive home detention or whether you are able to go into this Hope program is not [counsel's] decision to make. It is the [c]ourt's decision. And Judge Ishak of this court did some type of assessment and found that you should be held without bail and denied that request. And I can't say that I disagree with that.
>
> So, then [counsel] filed for another – let me see, there's that – filed another request for bail review on July 19th of 2022 which the State objected to and there was no hearing. Judge Ishak denied the hearing and denied the bail review because there was, I'm going to guess, because there was nothing new alleged.

So, once again, it's not up to [counsel] to decide whether you get home detention or whether you are allowed into this Hope program. That's the court's decision. And the court has now since twice denied it.

Now going through, of course, along with his entry of appearance back in April, [counsel] would have also – and by agreement with the Office of the Public Defender, when he enters his appearance he also requests discovery, all right. He also requests discovery.

So discovery was – and then [the State] entered [its] appearance [on] April 29th, and it looks like discovery was first sent June 1st of 2022. Now [counsel] has no control over whether and when the State provides discovery. But the State initially provided discovery in June of 2022. And then you filed your own motion for discovery in August of 2022.

****

[APPELLANT]: I did get my – they did send me my discoveries.

THE COURT: Who sent it to you?

[APPELLANT]: The courts. Sent me one of my motion discoveries.

[DEFENSE COUNSEL]: – inaudible – sent it, Your Honor.

THE COURT: It's not even filed. It's not in the court record.

[APPELLANT]: I got my motion for discovery before he even gave it to me, one of them.

THE COURT: The [c]ourt would not give you discovery.

[APPELLANT]: I did have my motion discovery sent to [the] Harford County Detention Center, yes, ma'am, I did, before he got it.

THE COURT: Well then it would have been [Maye's counsel]. It would have been [counsel] who sent it, because the court does not get involved in sending discovery.

****

(Private discussions between [counsel] and [appellant].)

THE COURT: And it could very well likely be, and I'm speculating, that [Maye's counsel's] office sent it to you when they received it from the State. It's very likely that it came from them, and not from – because it is impossible for the court to send you discovery. So my guess, and my best information is that somebody, probably [counsel], someone on his staff who works for him –

[DEFENSE COUNSEL]: It would probably have been my secretary, Your Honor.

THE COURT: Yeah, copied it when he received it from the State, copied it and sent it to you, okay….

All right. And then there was a motion to suppress filed. A hearing was held on the motion to suppress that [Maye's counsel] filed the motion to suppress where he raised the issues of lack of consent and raised the Fourth Amendment search and seizure violation. The hearing – the trial was postponed because of the fact the motion to suppress was filed September 2nd. So the first trial date was postponed.

There was a suppression scheduled, but you could not be brought because of the fact that you were in quarantine. You were in a quarantine unit, and so there was a request for you to appear remotely which the court did not grant, and it was rescheduled for December 19th, which is when the suppression hearing was held. All right.

So insofar as your complaints concerning [counsel] and his representation of you, I find that – and I am familiar with [counsel], I've known him for many years. I practiced in this county for going on 20 years now. I know [counsel]. I've worked extensively with [counsel], and he has appeared in front of me many, many times, and he has always been prepared. He's an experienced criminal defense attorney. But unfortunately for you, [appellant], he is not your only -- you are not his only client. He has a very busy practice. He is assigned some of the more serious cases that come through this [c]ourt, and so he needs to give every single one of his clients

> individual attention. So he may not be giving you his attention when you want it, but he is giving you his attention. And he is meeting with you, and he is preparing the case, and he's doing everything that a qualified and experienced criminal defense attorney would do, asking twice for the court to review your bail, filing a suppression hearing, having a suppression hearing. The fact that he was not successful at the suppression hearing is not his fault. It's because the court, whatever judge it was, made a finding that the – and denied the motion to suppress[]. He has met with you many times in preparation for the trial date.
>
> So, here are your choices. I do not find that your request to discharge [your attorney] has merit. And I'm not going to allow you to discharge him because this case is scheduled for trial today. Now if you would like to discharge him, you would have to proceed and represent yourself. Do you understand that?
>
> [APPELLANT]: Yes, ma'am.
>
> THE COURT: Is that what you want to do?
>
> [APPELLANT]: No.
>
> THE COURT: Okay. So I'm going to deny your request to discharge [counsel] as your attorney.

Maryland Rule 4-215(e), titled *Discharge of Counsel – Waiver*, provides as follows:

> 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.

The Rule provides a roadmap for the court to follow when a criminal defendant makes a request to discharge counsel. *First*, the court shall permit the defendant to explain the reasons for the request. *Second*, the court must determine whether the reasons are meritorious. *Third*, if the court finds the reasons meritorious, the court shall permit the discharge of counsel and take other necessary actions to implement it. If the court finds the reasons not meritorious, the court cannot permit the discharge of counsel without informing the defendant, *inter alia*, of the possibility that the trial will proceed with the defendant unrepresented by counsel.

Whether a trial court properly applied the requirements of Rule 4-215(e) is reviewed *de novo*. *Pinkney v. State*, 427 Md. 77, 88 (2012). If the court complies with Rule 4-215(e), its decision to grant or deny a motion to discharge counsel is reviewed for an abuse of discretion. *Weathers v. State*, 231 Md. App. 112, 131 (2016); *Cousins v. State*, 231 Md. App. 417, 438 (citations omitted), *cert. denied*, 453 Md. 13 (2017).

As noted earlier, on appeal, appellant claims that the court abused its discretion when it denied appellant's motion to discharge counsel on the basis of a finding that appellant's reasons for wishing to discharge his attorney were non-meritorious. We disagree.

Although not dispositive, we note at the outset, the last-minute nature of appellant's request to discharge counsel on the day trial began. Our Supreme Court has observed that the right to counsel "'does not give an accused the unfettered right to discharge current

counsel and demand different counsel shortly before or at trial.'" *State v. Taylor*, 431 Md. 615, 645 (2013) (quoting *Fowlkes v. State*, 311 Md. 586, 605 (1988)).

It is apparent to us that, during the January 31, 2023 status hearing, the court scrupulously complied with Rule 4-215(e) when, upon understanding that appellant sought to discharge counsel, the court invited appellant to explain his reasons for making that request. The court then heard from counsel and then gave appellant a chance to reply to counsel's response. The court then determined that appellant's reasons for discharging counsel were not meritorious, and correctly advised appellant in accordance with Rule 4-215(e).

In finding appellant's reasons for seeking to discharge counsel non-meritorious, the court found, *inter alia*, that counsel was an experienced criminal defense attorney with many years of experience. The court noted that much of appellant's frustration directed toward counsel stemmed from appellant's perception that counsel was not working diligently enough on his behalf. The court found that, even if counsel did not respond to appellant as quickly as appellant liked, counsel did, in fact respond, noting counsel "may not be giving you his attention when you want it, but he is giving you his attention."

The trial court found that counsel met with appellant repeatedly and was "doing everything that a qualified and experienced criminal defense attorney would do[.]" Moreover, the court noted that it had not been presented with any information about what counsel did nor did not do that would have made any difference for the bail review or on appellant's motion to suppress evidence.

To demonstrate an abuse of discretion, a decision must be "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *McLennan v. State*, 418 Md. 335, 353-54 (2011) (quotation marks and citation omitted). "[W]here a trial court's ruling is reasonable, even if we believe it might have gone the other way, we will not disturb it on appeal." *Fontaine v. State*, 134 Md. App. 275, 288 (2000). We discern no abuse of discretion on the part of the court in denying appellant's request to discharge counsel. We, therefore, affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR HARFORD COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.