

Circuit Court for Washington County  
Case No. 21-K-16-52976

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 3194

September Term, 2018

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JAMES ANDREW LAMBERT, JR.

v.

STATE OF MARYLAND

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Meredith,  
Friedman,  
Thieme, Raymond G., Jr.,  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Thieme, J.

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Filed: January 29, 2020

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

After James Andrew Lambert, Jr., entered not guilty pleas based on an agreed statement of facts, the Circuit Court for Washington County convicted him on two counts of possessing a dog with the intent to use it in a dog fight and one count of possessing a firearm after a disqualifying conviction. Lambert, who was sentenced to serve a total of five years,<sup>1</sup> presents the following two questions for our review:

1. Did the State fail to meet its burden of persuasion in establishing that the language used by an advising officer reasonably conveyed the content of the *Miranda*<sup>2</sup> warnings and that the defendant knowingly, intelligently, and voluntarily waived his rights?
2. Did the trial court err in failing to comply with Maryland Rule 4-215?

(Ant.2)

As the State concedes, the record shows that “the trial court erred in failing to comply with Rule 4-215(e) at the outset of the proceedings on July 6, 2017[,]” which resulted in the suppression ruling challenged by Lambert. (State.6) Consequently, we must vacate Lambert’s convictions and remand for further proceedings, including a new suppression hearing.

We shall briefly review the record and reasoning supporting reversal. At the outset of the July 2017 hearing, defense counsel informed the court that Lambert sought to discharge him, prompting the following colloquy:

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<sup>1</sup> Lambert was sentenced to consecutive terms of five years, with all but two and a half suspended, for each of the dog fighting counts, plus a consecutive term of five years, all of it suspended, for the firearm offense.

<sup>2</sup> *Miranda v. Arizona*, 384 U.S. 436, 467, 16 L. Ed. 2d 694, 86 S. Ct. 1602 (1966).

[DEFENSE COUNSEL]: We are scheduled today for a motion to suppress and forfeiture proceedings on the State's emergency motion. However, having spoken with Mr. Lambert this morning, I understand he's dissatisfied with my counseling. Mr. Lambert will seek private counsel and discharge the public defender's office today.

[PROSECUTOR]: Your Honor, Your Honor, the State objects. This cannot be done at this late date. I have every witness in the courtroom including an expert that travels around the country on behalf of the United States Humane Society.

THE COURT: Mr. Lambert – Mr. [Defense Counsel], when did Mr. Lambert bring this to your attention?

[DEFENSE COUNSEL]: This was this morning, Your Honor.

THE COURT: All right. When was the last time you spoke to him before this morning?

[DEFENSE COUNSEL]: I believe that was last Thursday when the forfeiture hearing was originally scheduled.

THE COURT: All right. Mr. Lambert, I'm going to deny your request to discharge your counsel at this time. This is a motions hearing today. We're going to conduct the hearing. If, after the motions hearing, you desire to do that, there's an appropriate way to do it, and you can work through Mr. [Defense Counsel's] office to have that handled.

[MR. LAMBERT]: Can I say something, Your Honor?

THE COURT: You may.

[MR. LAMBERT]: Mr. [Defense Counsel] was on vacation so I couldn't get in contact with him till after Thursday.

[DEFENSE COUNSEL]: That is correct.

[MR. LAMBERT]: So I couldn't get time set with him. So I wanted to tell him and get the paperwork, but it's – today's the first day I've had a chance to see him.

THE COURT: Well that was just a week ago that you spoke to him; correct?

[MR. LAMBERT]: Yes, sir. He went on vacation right after that.

THE COURT: All right.

[DEFENSE COUNSEL]: That is true.

THE COURT: Sir, the request is going to be denied. Mr. [Defense Counsel] is still your attorney. I'm not going to strike his appearance at this point.

[DEFENSE COUNSEL]: Mr. Lambert, you have the right to be represented by counsel at a proceeding like this. You also have the right to represent yourself. I can't tell you what to do in that regard. Only you have the, the information, the feelings that based on what you think I've done and what you think that I've done wrong. If you wish to represent yourself today, it's important to know that you have that right. But if you want me to represent you, I'm happy to do it.

[MR. LAMBERT]: I just want you to represent me.

THE COURT: All right. So we're going to proceed with both the motion to suppress and the emergency motion?

[PROSECUTOR]: Yes, Your Honor.

THE COURT: All right. You can have a seat, Mr. Lambert.

(T1.1-3)

Lambert contends that the trial court violated Maryland Rule 4-215 because it “made no inquiry into [his] reasons for seeking to discharge counsel before perfunctorily denying his request.” (Ant.23) “On this record,” the State acknowledges that it “must agree.” (State.7)

Maryland Rule 4-215(e) “governs the ‘court procedure when a defendant expresses a desire to discharge his or her current counsel.’” *State v. Graves*, 447 Md. 230, 240-41 (2016) (citation omitted). In pertinent part, the rule states:

*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.

(Emphasis added.)

Because this rule “is a ‘precise rubric’” that “‘exists as a ‘checklist’ that a judge must complete”” when considering a request to discharge counsel, once such a request is made, “a court’s failure to comply strictly with [it] constitutes reversible error.” *State v. Camper*, 415 Md. 44, 55-56 (2010) (citations omitted). After “any statement from which a court could conclude reasonably that the defendant may be inclined to discharge counsel[,]” the court is compelled to investigate the defendant’s reasons. *See Williams v. State*, 435 Md. 474, 487-88 (2013). Specifically, the court must “inquir[e] about the reasons underlying” that request, by giving the defendant “an opportunity to explain those reasons.” *Graves*, 447 Md. at 242.

The mandates in Rule 4-215(e), to elicit and examine reasons for requesting discharge of counsel, enable a court to meaningfully decide whether to grant such a request. “Although the trial judge need not engage in a full-scale inquiry pursuant to Rule 4-215, the judge must at least consider the defendant’s reason for requesting dismissal before

rendering a decision” on whether that reason is meritorious. *See Hawkins v. State*, 130 Md. App. 679, 683 (2000).

Where a trial judge finds a defendant’s reasons to be meritorious, he must grant the request and, if necessary, give the defendant an opportunity to retain new counsel. When a defendant makes an unmeritorious request to discharge counsel, the trial judge may proceed in one of three ways: (1) deny the request and, if the defendant rejects the right to represent himself and instead elects to keep the attorney he has, continue the proceedings; (2) permit the discharge in accordance with the Rule, but require counsel to remain available on a standby basis; (3) grant the request in accordance with the Rule and relieve counsel of any further obligation.

*Williams v. State*, 321 Md. 266, 273 (1990).

Our cases establish that a court’s failure to elicit and examine a criminal defendant’s reasons for seeking to discharge counsel, followed by a failure to determine whether those reasons are meritorious, is reversible error. For example, in *Williams*, when the defendant stated, “I want another representative,” the trial court replied, “Your motion is denied. This is the only Public Defender you are going to get.” *Id.* at 267. The Court of Appeals reversed, on the ground that “the trial court could not have properly exercised any of these options” described above “because it had no basis – Williams’ reasons – upon which to act.” *Id.* at 274.

In *Hawkins v. State*, 130 Md. App. 679, 683 (2000), as in this case, just before a suppression hearing, Hawkins asked to discharge his court-appointed attorney. “Before considering any additional information, the administrative judge responded, ‘No. I’m not going to let him.’” *Id.* This Court concluded that “[t]he judge made his initial ruling before either listening to or considering any explanation[,]” and later “when [Hawkins] was in the

process of explaining why he wanted to discharge his court-appointed attorney, the judge interjected, “We are not getting into that issue, sir.” *Id.* at 687-88. We observed that “[w]hat the judge did not wish ‘to get into’ was the very thing that the court was required to ask him about and carefully consider.” *Id.* at 688.

Similarly, in *Johnson v. State*, 190 Md. App. 275, 280 (2010), when the court was advised at the outset of a motion hearing that Johnson said something to the prosecutor “about the release of his counsel[,]” “the court immediately exclaimed: ‘That’s not going to happen.’” We held that “Rule 4-215(e) was violated when the court was made aware of appellant’s desire to discharge counsel but did not ask for or consider [his] reasons for wanting to do so before denying the request.” *Id.* at 288.

Here, Rule 4-215(e) was triggered when defense counsel informed the motion court that Lambert was “dissatisfied with” his representation and “will seek private counsel and discharge the public defender’s office today.” (T1.1) As the State concedes, no matter how unlikely the court may have believed it was that Lambert had a meritorious reason for discharging his current counsel, the required course of action was to ask Lambert to explain his reasons, to consider them, and then to determine whether they were meritorious.

Because the court erred in failing to do so, we are required to vacate Lambert’s convictions. *See Camper*, 415 Md. at 55. Moreover, because this error occurred at the outset of the suppression hearing at which Lambert was represented by the attorney he sought to discharge, a new suppression hearing is required.

**JUDGMENTS OF CONVICTION  
VACATED. CASE REMANDED TO THE  
CIRCUIT COURT FOR WASHINGTON  
COUNTY FOR PROCEEDINGS  
CONSISTENT WITH THIS OPINION.  
COSTS TO BE PAID BY WASHINGTON  
COUNTY.**