

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES ROBERTSON,	§	
	§	No. 471, 2015
Defendant Below-	§	
Appellant,	§	
	§	Court Below—Superior Court
v.	§	of the State of Delaware
	§	
STATE OF DELAWARE,	§	Cr. ID 1211003722
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: February 11, 2016

Decided: April 11, 2016

Before **STRINE**, Chief Justice; **HOLLAND** and **SEITZ**, Justices.

ORDER

This 11th day of April 2016, upon consideration of the appellant’s Supreme Court Rule 26(c) brief, his attorney’s motion to withdraw, and the State’s response thereto, it appears to the Court that:

(1) In May 2013, the defendant-appellant, James Robertson, pled guilty to one count each of Possession of a Deadly Weapon by a Person Prohibited and Possession of a Weapon with an Obliterated Serial Number. On August 23, 2013, the Superior Court sentenced Robertson as a habitual offender to a total period of eight years and one day at Level V imprisonment, with credit for time served, to be suspended after serving five years and one day in prison for decreasing levels of supervision. Robertson did not file a direct appeal. On August 11, 2014, he filed a

motion for postconviction relief. After appointing counsel and holding an evidentiary hearing, the Superior Court denied Robertson's motion on August 19, 2015. This appeal followed.

(2) Robertson's counsel on appeal has filed a brief and a motion to withdraw under Rule 26(c). Robertson's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Robertson's attorney informed him of the provisions of Rule 26(c) and provided Robertson with a copy of the motion to withdraw and the accompanying brief. Robertson also was informed of his right to supplement his attorney's presentation. Robertson has not raised any points for the Court's consideration. The State has responded to the position taken by Robertson's counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and determine whether the appeal is so totally

devoid of at least arguably appealable issues that it can be decided without an adversary presentation.¹

(4) This Court has reviewed the record carefully. In the absence of any points to consider on appeal, the Court has concluded that Robertson's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Robertson's counsel has made a conscientious effort to examine the record and the law and has properly determined that Robertson could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

*/s/ Leo E. Strine, Jr.*_____

Chief Justice

¹ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).