

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BOBBY MILLER a.k.a.	§
OTTO GIBBS,	§ No. 579, 2015
	§
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware,
v.	§
	§ Cr. ID No. 1408016867
STATE OF DELAWARE,	§
	§
Plaintiff Below,	§
Appellee.	§

Submitted: April 22, 2016
Decided: May 5, 2016

Before **HOLLAND, VALIHURA, and VAUGHN**, Justices.

ORDER

This 5th day of May 2016, upon consideration of the appellant’s Supreme Court Rule 26(c) brief, the State’s response, and the record below, it appears to the Court that:

(1) On January 23, 2015, a Superior Court jury found the appellant, Bobby Miller a.k.a. Otto Gibbs, guilty of Failure to Register as a Sex Offender. Miller was sentenced, effective September 11, 2015, to two years of Level V incarceration, suspended after twenty-one days for six months of Level II probation. This is Miller’s direct appeal.

(2) On appeal, Miller’s counsel (“Counsel”) filed a brief and a motion to withdraw under Supreme Court Rule 26(c) (“Rule 26(c”). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel informed Miller of the provisions of Rule 26(c) and provided Miller with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Miller of his right to identify any points he wished this Court to consider on appeal. Miller has not raised any issues for this Court’s consideration. The State has responded to the Rule 26(c) brief and has moved to affirm the Superior Court’s judgment.

(4) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must: (i) be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (ii) 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

(5) This Court has reviewed the record carefully and has concluded that the Miller’s appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Miller’s counsel has made a conscientious effort

¹ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *Leacock v. State*, 690 A.2d 926, 927-28 (Del. 1996).

to examine the record and the law and has properly determined that Miller could not raise a meritorious claim in this appeal.

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

BY THE COURT:

/s/ Karen L. Valihura
Justice