IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT MILLER,	§	
	§	No. 667, 2015
Defendant Below-Appellant,	§	
	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	
	§	Cr. ID 1412002671
Plaintiff Below-Appellee.	§	
	§	

Submitted: May 6, 2016
Decided: May 18, 2016

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

ORDER

This 18th day of May 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) On June 9, 2015, the defendant-appellant, Robert Miller, pled guilty to one count of Assault in the Second Degree. In exchange for his plea, the State dismissed a charge of Offensive Touching and agreed to recommend a sentence of no more than three years imprisonment. On November 13, 2015, the Superior Court sentenced Miller to eight years at Level V imprisonment without benefit of any form of early release, under 11

Del. C. § 4204(k), to be followed by six months at Level IV. This is Miller's direct appeal.

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

(3) This Court's review of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (i) we must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (ii) we must conduct our 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]

[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).

(4) The Court has reviewed the record carefully and has concluded that 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 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/ Collins J. Seitz, Jr.
Justice