

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH T. COOPER,	§
	§ No. 227, 2016
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below: Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§
	§ Cr. ID 1510000403
Plaintiff Below-	§
Appellee.	§

Submitted: September 16, 2016
Decided: September 22, 2016

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

ORDER

This 22nd day of September 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 April 2016, the defendant-appellant, Joseph Cooper, pled guilty to misdemeanor Theft and misdemeanor Selling Stolen Property. The Superior Court immediately sentenced Cooper to two years at Level V incarceration, to be suspended after serving one year in prison and successful completion of drug treatment for a period of probation. This is Cooper's direct appeal.

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

(4) This Court has reviewed the record carefully and has concluded that Cooper's appeal is wholly without merit and devoid of any arguably

* *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).

appealable issue. We also are satisfied that Cooper's counsel has made a conscientious effort to examine the record and the law and has properly determined that Cooper 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/ James T. Vaughn, Jr.
Justice