

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |                              |
|--------------------|------------------------------|
| PATRICIA WISHER,   | §                            |
|                    | § No. 563, 2016              |
| Defendant Below,   | §                            |
| Appellant,         | §                            |
| v.                 | § Court Below—Superior Court |
|                    | § of the State of Delaware   |
|                    | §                            |
| STATE OF DELAWARE, | § Cr. ID No. 1506021466      |
|                    | §                            |
| Plaintiff Below,   | §                            |
| Appellee.          | §                            |

Submitted: April 12, 2017

Decided: May 9, 2017

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

**ORDER**

This 9<sup>th</sup> day of May 2017, 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) In November 2015, a New Castle County grand jury indicted the appellant, Patricia Wisher, for Assault in the Second Degree. On October 31, 2016, Wisher pled guilty to the lesser included offense of Assault in the Third Degree. The Superior Court sentenced Wisher to one year of Level V incarceration. This is Wisher’s direct appeal.

(2) On appeal, Wisher’s counsel (“Counsel”) filed a brief and a motion to withdraw under Supreme Court Rule 26(c). Counsel asserts that, based upon a

complete and careful examination of the record, there are no arguably appealable issues. Counsel informed Wisner of the provisions of Rule 26(c) and provided Wisner with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Wisner of her right to identify any points she wished this Court to consider on appeal. Wisner 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.<sup>1</sup>

(5) This Court has reviewed the record carefully and has concluded that Wisner's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Counsel has made a conscientious effort to examine the record and the law and has properly determined that Wisner could not raise a meritorious claim in this appeal.

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

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