

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERMAINE CARTER,	§
	§ No. 56, 2017
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1605016488 (N)
	§
Plaintiff Below,	§
Appellee.	§

Submitted: June 9, 2017
Decided: June 16, 2017

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

ORDER

This 16th day of June 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) On January 4, 2017, after a one day bench trial, the Superior Court found the appellant, Jermaine Carter, guilty of Assault in a Detention Facility. The Superior Court immediately sentenced Carter to five years of Level V incarceration, suspended after two years for eighteen months of Level III probation. This is Carter’s direct appeal.

(2) On appeal, Carter’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 Carter of the provisions of Rule 26(c) and provided Carter with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Carter of his right to identify any points he wished this Court to consider on appeal. Carter 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 Carter'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 Carter could not raise a meritorious claim in this appeal.

¹ *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/ Karen L. Valihura
Justice