

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WALIK JOHNSON,	§	
	§	No. 8, 2008
Defendant Below,	§	
Appellant,	§	Court Below--Superior Court
	§	of the State of Delaware in
v.	§	and for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	Cr. ID Nos. 0701013044
Plaintiff Below,	§	0612006782
Appellee.	§	

Submitted: May 28, 2008
Decided: August 4, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 4th day of August 2008, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) In July 2007, the appellant, Walik Johnson, pled guilty to one count each of Maintaining a Dwelling, Conspiracy in the Second Degree, Possession with Intent to Deliver Cocaine, and Distribution of Cocaine within 300' of a Park. On September 12, 2007, Johnson was sentenced to an aggregate of nineteen years in prison, suspended after twelve years for decreasing levels of supervision. This appeal followed.

(2) On appeal, Johnson’s defense counsel (“Counsel”) has filed a brief and a motion to withdraw pursuant to Rule 26(c). The standard and scope of review of a motion to withdraw and an accompanying brief under Rule 26(c) is two-fold. First, the Court must be satisfied that Counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal.¹ Second, the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.²

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

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).

² *Id.*

(4) This Court has reviewed the record carefully and has concluded that Johnson'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 Johnson 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/ Randy J. Holland
Justice