## IN THE SUPREME COURT OF THE STATE OF DELAWARE

LAMMOT SCRUGGS,	§
	§ No. 193, 2012
Defendant Below,	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§
	§ Cr. ID No. 1107000268
Plaintiff Below,	§
Appellee.	§

Submitted: October 8, 2012 Decided: October 15, 2012

Before STEELE, Chief Justice, JACOBS and RIDGELY, Justices.

## ORDER

This 15th day of October 2012, 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) The defendant-appellant, Lammot Scruggs, was found guilty by a Superior Court jury of Terroristic Threatening and Contempt of a Protection From Abuse Order. The jury was deadlocked on the additional charges of Burglary in the Second Degree, Offensive Touching and Endangering the Welfare of a Child. Before a re-trial on those additional charges, Scruggs pleaded guilty to Burglary in the Second Degree. In exchange for the guilty plea, the State dismissed the remaining charges and did not seek Scruggs

being sentenced as a habitual offender. Scruggs was sentenced to a total of 7 years of Level V incarceration, to be suspended after 4 years for 6 months at Level III probation. This is Scruggs' direct appeal.

- (2) Scruggs' counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). Scruggs' counsel asserts that, based upon a complete and careful examination of the record and the law, there are no arguably appealable issues. By letter, Scruggs' attorney informed him of the provisions of Rule 26(c) and provided Scruggs with a copy of the motion to withdraw and the accompanying brief. Scruggs also was informed of his right to supplement his attorney's presentation. Scruggs has not raised any issues for this Court's consideration. The State has responded to the position taken by Scruggs' counsel and has moved to affirm the Superior Court's decision.
- (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 any 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) The Court has reviewed the record carefully and has concluded that Scruggs' appeal is wholly without merit and devoid of any arguably appealable issues. We also are satisfied that Scruggs' counsel has made a conscientious effort to examine the record and the law and has properly determined that Scruggs 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/ Jack B. Jacobs
Justice

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<sup>\*</sup> See 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).