

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PATRICK L. BROWN,	§	
	§	No. 139, 2012
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware in
v.	§	and for Sussex County
	§	
STATE OF DELAWARE,	§	Cr. ID Nos. 9605005835
	§	1112011002
Plaintiff Below,	§	1201007430
Appellee.	§	

Submitted: August 15, 2012
Decided: October 23, 2012

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

O R D E R

This 23rd 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, it appears to the Court that:

(1) On March 6, 2012, the appellant, Patrick L. Brown, pled guilty to three counts of a seventeen-count indictment in *State v. Brown*, Cr. ID No. 1112011002,¹ to a single-count information in *State v. Brown*, Cr. ID No. 1201007430,² and to a charge of violation of probation in *State v. Brown*, Cr.

¹ Brown pled guilty to Tier IV Drug Dealing (Cocaine), Possession of a Firearm During the Commission of a Felony, and Possession of a Deadly Weapon by a Person Prohibited.

² Brown pled guilty to Receiving Stolen Property.

ID No. 9605005835.³ The Superior Court immediately sentenced Brown in accordance with the plea agreement recommendation. For the four new charges, Brown was sentenced to a total of thirty years at Level V suspended after fourteen years for Level IV work release and Level III probation. For the violation of probation, Brown was sentenced to four years at Level V suspended for probation. This is Brown’s direct appeal.

(2) On appeal, Brown’s defense counsel (“Counsel”) has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c) (“Rule 26(c”).⁴ Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues.⁵ Brown has submitted seven points for this Court’s consideration.⁶ The State has responded to Brown’s points and has moved to affirm the Superior Court’s judgment.⁷

(3) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must be satisfied that Counsel has made a conscientious examination of the record and the law for arguable claims.⁸

³ Brown pled guilty to violation of probation for Burglary in the First Degree and other convictions arising from his 1997 jury trial.

⁴ See Del. Supr. Ct. R. 26(c) (governing criminal appeals without merit).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *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).

The Court must also 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.⁹

(4) On appeal, Brown has raised six related claims, each alleging that the evidence seized should have been excluded because the search warrant was invalid. In a seventh claim, Brown alleges that police and probation/parole officers “entrapped” him because they had the opportunity to arrest him on December 7, 2011, but chose instead to arrest him a week later on December 15, 2011, after his home was searched.

(5) There is nothing in the record to support Brown’s claim that he was “entrapped,” that is, induced by law enforcement to engage in criminal conduct that he was not otherwise disposed to do.¹⁰ Brown’s claims are also without merit, however, because they are deemed waived.

(6) In Delaware it is well-settled that a voluntary guilty plea constitutes a waiver of any alleged errors or defects occurring prior to the entry of the plea.¹¹ In this case, the transcript of the plea colloquy between the Superior Court and Brown and Brown’s answers on the Truth-in-Sentencing Guilty Plea Form make it clear that Brown entered his guilty

⁹ *Id.*

¹⁰ See Del. Code Ann. tit. 11, § 432(a) (2007) (governing entrapment as defense to criminal liability).

¹¹ *Miller v. State*, 840 A.2d 1229, 1232 (Del. 2003).

plea knowingly, intelligently and voluntarily and with full knowledge of the rights that he was waiving as a result of pleading guilty. Brown is bound by his statements during the plea colloquy and his answers on the Truth-in-Sentencing Guilty Plea Form.¹²

(7) As a result of Brown's voluntary guilty plea, the Court will not consider on appeal any allegations of errors that occurred prior to the entry of the plea, which include Brown's claims regarding the search warrant and the circumstances leading to his arrest. Those claims are deemed waived.¹³

(8) The Court has reviewed the record carefully and has concluded that Brown's appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Counsel made a conscientious effort to examine the record and the law and properly determined that Brown could not raise a meritorious claim on direct 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

¹² *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

¹³ *Powell v. State*, 2010 WL 572129 (Del. Supr.) (citing *Miller v. State*, 840 A.2d 1229, 1232 (Del. 2003)).