

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONALD J. WILSON,	§	
	§	No. 525, 2013
Defendant Below,	§	
Appellant,	§	Court Below – Superior Court
	§	of the State of Delaware in
v.	§	and for Sussex County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 1301011903
Appellee.	§	

Submitted: January 27, 2014
Decided: April 4, 2014

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

ORDER

This 4th day of April 2014, 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 September 4, 2013, the appellant, Ronald J. Wilson, pled guilty to a third offense of Driving under the Influence (“DUI”). The Superior Court sentenced him to two years at Level V supervision suspended after ninety days for eighteen months at Level III probation. This is Wilson’s direct appeal.

(2) On appeal, Wilson’s appellate counsel (“Counsel”)¹ has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c) (“Rule 26(c)”)². Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Wilson has submitted an issue for the Court’s consideration. The State has responded to Wilson’s claim and has moved to affirm the Superior Court’s judgment.

(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.³ 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.⁴

(4) On appeal, Wilson contends that his Superior Court defense counsel provided ineffective assistance in connection with his guilty plea. This Court will not consider a claim of ineffective assistance of counsel that

¹ Wilson was represented by different counsel in the Superior Court.

² See Del. Supr. Ct. R. 26(c) (governing criminal appeals without merit).

³ *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).

⁴ *Id.*

is asserted for the first time on direct appeal.⁵ Because the claim has not been adjudicated by the Superior Court in the first instance, we decline to address the claim in this proceeding.

(5) The Court has reviewed the record carefully and has concluded that Wilson'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 Wilson 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/ Henry duPont Ridgely
Justice

⁵ *Desmond v. State*, 654 A.2d 821, 829 (Del. 1994).