

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DALLAS PORTER,	§
	§ No. 162, 2015
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 1308017185
	§
Plaintiff Below,	§
Appellee.	§

Submitted: August 31, 2015
Decided: September 17, 2015

Before **STRINE**, Chief Justice; **HOLLAND**, and **SEITZ**, Justices.

ORDER

This 17th day of September 2015, 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 December 10, 2014, a Superior Court jury found the appellant, Dallas Porter, guilty of Burglary in the Second Degree and Criminal Mischief and not guilty of Theft. Porter was sentenced as follows: (i) for Burglary in the Second Degree as a habitual offender under 11 *Del. C.* § 4214(a), eight years of Level V incarceration; (ii) for Criminal Mischief, thirty days of Level V incarceration. This is Porter’s direct appeal.

(2) On appeal, Porter’s counsel (“Counsel”) filed a brief and a motion to withdraw under Supreme Court Rule 26(c) (“Rule 26(c”). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel informed Porter of the provisions of Rule 26(c) and provided Porter with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Porter of his right to identify any points he wished this Court to consider on appeal. Porter has not raised any issues for this Court to consider. The State has responded to the Rule 26(c) brief and 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 the Porter’s appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Porter’s counsel has made a conscientious effort to

¹ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *Leacock v. State*, 690 A.2d 926, 927-28 (Del. 1996).

examine the record and the law and has properly determined that Porter could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Leo E. Strine, Jr. _____

Chief Justice