

IN THE SUPREME COURT OF THE STATE OF DELAWARE

COREY LEWIS,	§	
	§	No. 309, 2011
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware in
v.	§	and for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 1010003050
Appellee.	§	

Submitted: November 1, 2011

Decided: January 23, 2012

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

O R D E R

This 23rd day of January 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 10, 2011, a Superior Court jury found the appellant, Corey Lewis, guilty of Possession of a Controlled Substance within 1000 Feet of a School. On June 3, 2011, following a limited presentence investigation, Lewis was sentenced to two years at Level V suspended after ninety days with no probation. This is Lewis' direct appeal.

(2) Lewis' 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. Counsel also reports that Lewis did not submit any points for the Court's consideration.³ The State has moved to affirm the Superior Court's judgment.

(3) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims.⁴ 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.⁵

(4) In this case, the Court has reviewed the record carefully and has concluded that Lewis' appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Counsel made a

¹ Lewis was represented by different counsel at trial.

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

³ The record reflects that Counsel provided Lewis, as required, with a copy of the motion, the brief and appendix, and a letter explaining that Lewis had a right to submit written points for the Court's consideration. *Id.*

⁴ *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).

⁵ *Id.*

conscientious effort to examine the record and the law and properly determined that Lewis could not raise a meritorious claim on 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/ Carolyn Berger
Justice