IN THE SUPREME COURT OF THE STATE OF DELAWARE

CARL CALDWELL,[1]	§	
	§	No. 698, 2011
Defendant Below-	§	
Appellant,	§	
	§	Court Below—Superior Court
v.	§	of the State of Delaware
	§	in and for Kent County
STATE OF DELAWARE,	§	Cr. ID No. 1103017051
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: April 16, 2012
Decided: April 23, 2012

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

O R D E R

This 23rd day of April 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, Carl Caldwell, entered a plea of guilty to two counts of Assault in the First Degree and two counts of Possession of a Firearm During the Commission of a Felony. He was sentenced to a total

[1] The record reflects that Caldwell was a minor at the time of the crimes in question, having been born on October 14, 1993. Following an amenability hearing in the Family Court on April 11, 2011, Caldwell was bound over for trial in the Superior Court. On November 30, 2011, the date of his guilty plea colloquy, Caldwell was no longer a minor, having reached the age of 18.

of 60 years of Level V incarceration, to be suspended after 20 years for decreasing levels of supervision. This is Caldwell's direct appeal.

(2) Caldwell's counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). 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) the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal; and b) the Court must conduct its own review of the record in order to determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.[2]

(3) Caldwell's counsel asserts that, based upon a careful and complete examination of the record and the law, there are no arguably appealable issues. By letter, Caldwell's counsel informed him of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw, the accompanying brief and the complete trial transcript. Caldwell also was informed of his right to supplement his attorney's presentation. Caldwell responded with a brief that raises one issue for this Court's consideration. The State responded to the position taken by

[2] *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).

Caldwell's counsel as well as the issue raised by Caldwell and has moved to affirm the Superior Court's judgment.

(4) Caldwell raises one issue for this Court's consideration. Caldwell claims that his attorney provided ineffective assistance at his plea hearing in that he a) failed to inform the court that he had been in the prison mental health unit; b) told him, incorrectly, that he would receive only a 10-year sentence; c) failed to do a background check on him; d) failed to say enough on his behalf prior to sentencing; and e) failed to see that a pre-sentence investigation was done.

(5) It is axiomatic that this Court will not consider claims of ineffective assistance of counsel on direct appeal where the Superior Court has not already fully adjudicated those claims.[3] Caldwell did not raise the issue of his counsel's alleged ineffectiveness in the Superior Court. We, therefore, decline to address it in this proceeding.

(6) This Court has reviewed the record carefully and has concluded that Caldwell's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Caldwell's counsel has made a conscientious effort to examine the record and has properly determined that Caldwell could not raise a meritorious claim in this appeal.

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

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