

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BUEL MUTTER,	§
	§
Defendant Below,	§ No. 283, 2019
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID. No. 1803014753
	§
Plaintiff Below,	§
Appellee.	§

Submitted: November 14, 2019

Decided: January 9, 2020

Before **SEITZ**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

ORDER

After consideration of the brief and motion to withdraw filed by the appellant’s counsel under Supreme Court Rule 26(c), the State’s response, and the record on appeal, it appears to the Court that:

(1) On February 13, 2019, the appellant, Buel Mutter, pleaded guilty to Attempted Rape First Degree, Sexual Exploitation of a Child, and Possession of Child Pornography. In exchange for the guilty plea, the State dismissed multiple other indicted charges against Mutter. On June 7, 2019, following a presentence investigation, the Superior Court sentenced Mutter as follows: for Attempted Rape First Degree, to imprisonment for the balance of his natural life, suspended after twenty-five years; for Sexual Exploitation of a Child, to twenty-five years in prison,

suspended after two years; for Possession of Child Pornography, to three years' imprisonment, suspended for two years of probation. This is Mutter's direct appeal.

(2) On appeal, Mutter's counsel has filed a brief and a motion to withdraw under Supreme Court Rule 26(c). Mutter's counsel asserts that, based upon a conscientious review of the record and the law, the appeal is wholly without merit. In his statement filed under Rule 26(c), counsel indicates that he informed Mutter of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Counsel also informed Mutter of his right to submit points he wanted this Court to consider on appeal. Mutter has not submitted any points for the Court's consideration. The State has responded to the Rule 26(c) brief and argues that the Superior Court's judgment should be affirmed.

(3) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must be satisfied that the appellant's counsel has made a conscientious examination of the record and the law for arguable claims.¹ This Court must also conduct its own review of the record and determine whether "the appeal is indeed so frivolous that it may be decided without an adversary presentation."²

¹ *Penson v. Ohio*, 488 U.S. 75, 82-83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

² *Penson*, 488 U.S. at 82.

(4) The Court has reviewed the record carefully and concluded that the appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that counsel made a conscientious effort to examine the record and the law and properly determined that Mutter could not raise a meritorious claim on 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/ James T. Vaughn, Jr.
Justice