

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|------------------------------|
| JAMES BELL, | § |
| | § No. 95, 2020 |
| Defendant Below, | § |
| Appellant, | § |
| | § |
| v. | § Court Below–Superior Court |
| | § of the State of Delaware |
| STATE OF DELAWARE, | § |
| | § Cr. ID No. 1905013886 (K) |
| Plaintiff Below, | § |
| Appellee. | § |

Submitted: August 25, 2020
Decided: October 8, 2020

Before **SEITZ**, Chief Justice; **VALIHURA** and **MONTGOMERY-REEVES**, Justices.

ORDER

After careful consideration of the appellant’s brief filed under Supreme Court Rule 26(c), his attorney’s motion to withdraw, the State’s response, and the Superior Court record, it appears to the Court that:

(1) Following a police investigation into an allegation that the appellant, James Bell, had engaged in a sexual relationship with a minor, a Superior Court grand jury charged Bell by indictment with one count of fourth degree rape. In November 2019, the case proceeded to a jury trial. At trial, the State presented evidence of the parties’ respective ages, the victim acknowledged engaging in sexual intercourse with Bell, and the State introduced evidence establishing Bell’s paternity

of the victim's child. At the conclusion of the trial, the jury found Bell guilty as charged. On February 12, 2020, the Superior Court sentenced Bell to ten years of Level V incarceration, suspended for two years of Level III probation. This is Bell's direct appeal.

(2) Bell's counsel on appeal has filed a brief and a motion to withdraw under Rule 26(c). Counsel asserts that, after a complete and careful examination of the record, there are no arguably appealable issues. Bell's attorney informed Bell of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and a draft of the accompanying brief. Counsel also informed Bell of his right to supplement his attorney's presentation. Bell has not raised any issues for the Court's consideration. The State has responded to the position taken by Bell's counsel and has moved to affirm the Superior Court's judgment.

(3) 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. First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could be arguably be raised on appeal.¹ Second, the Court must conduct its own review of the record and determine

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

whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.²

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

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

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

² *Penson*, 488 U.S. at 81-82.