

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHERISE SIMON,	§
	§ No. 78, 2022
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1909013528 (N)
	§
Appellee.	§
	§

Submitted: September 12, 2022

Decided: October 4, 2022

Before **SEITZ**, Chief Justice; **VALIHURA** and **TRAYNOR**, 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) In February 2022, a Superior Court jury found the appellant, Cherise Simon, guilty of misdemeanor resisting arrest. The jury found Simon not guilty of leaving the scene of an accident and driving under the influence. The Superior Court sentenced Simon to one year of Level V incarceration, suspended for one year of Level II probation. This is Simon’s direct appeal.

(2) On appeal, Simon’s counsel (“Counsel”) filed a brief and a motion to withdraw under Rule 26(c). Counsel asserts that, based upon a complete and careful

examination of the record, there are no arguably appealable issues. Counsel informed Simon of the provisions of Rule 26(c) and provided her with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Simon of her right to identify any points she wished this Court to consider on appeal. Simon has not provided points for this Court's consideration. The State has responded to the Rule 26(c) brief and has 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 Simon's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Counsel has made a conscientious effort to examine the record and the law and has properly determined that Simon could not raise a meritorious claim on appeal.

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

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

BY THE COURT:

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