

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARTIN ORTIZ-LOZANO,	§
	§ No. 416, 2023
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID No. 2205009441 (N)
STATE OF DELAWARE,	§
	§
Appellee.	§

Submitted: May 8, 2024
Decided: May 24, 2024

Before **VALIHURA, TRAYNOR, and LEGROW**, Justices.

ORDER

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

(1) In September 2022, a grand jury charged the appellant, Martin Ortiz-Lozano, with four counts of first-degree child abuse, one count of second-degree child abuse, and two counts of trafficking an individual. On June 20, 2023, Ortiz-Lozano pleaded guilty to two counts of first-degree child abuse and one count of trafficking an individual. Under the plea agreement, the State agreed to enter a *nolle prosequi* on the remaining charges. The State also agreed to cap its recommendation for any unsuspended Level V time to ten years. After a presentence investigation,

the Superior Court sentenced Ortiz-Lozano, effective May 26, 2022, to seventy-five years of Level V incarceration, suspended after fifteen years for decreasing levels of supervision. This appeal followed.

(2) On appeal, Ortiz-Lozano’s counsel (“Counsel”) filed a brief and a motion to withdraw under Supreme Court Rule 26(c). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel informed Ortiz-Lozano of the provisions of Rule 26(c) and provided Ortiz-Lozano with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Ortiz-Lozano of his right to identify any points he wished this Court to consider on appeal. Ortiz-Lozano has not submitted any points for this Court’s consideration.

(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 Having carefully reviewed the record, we conclude that Ortiz-Lozano’s appeal is wholly without merit and devoid of any arguably

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

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 Ortiz-Lozano could not raise a meritorious claim in this appeal.

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

BY THE COURT:

/s/ Gary F. Traynor
Justice