

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANDREW BINGHAM,	§
	§ No. 103, 2013
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID Nos. 1102007972
	§ 1011021174
Plaintiff Below,	§
Appellee.	§

Submitted: August 2, 2013

Decided: August 29, 2013

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 29th day of August 2013, 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, Andrew Bingham, pleaded guilty to 2 counts of Robbery in the First Degree, 2 counts of Possession of a Firearm During the Commission of a Felony, and 1 count of Assault in the Second Degree. He was sentenced on each of the robbery convictions to 25 years of Level V incarceration, to be suspended after 15 years, with no probation to follow. On each of the firearm convictions, he was sentenced to 10 years at Level V, with no probation to follow. On the assault conviction, he was

sentenced to 8 years at Level V, to be suspended for 3 years at Level IV, in turn to be suspended after 6 months for 2 years of Level III probation.

(2) Bingham's counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). Bingham's counsel asserts that, based upon a complete and careful examination of the record and the law, there are no arguably appealable issues. By letter, Bingham's attorney informed him of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Bingham also was informed of his right to supplement his attorney's presentation. Bingham has not raised any issues for this Court's consideration. The State has responded to the position taken by Bingham'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: a) the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; 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.*

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

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/ Jack B. Jacobs
Justice

* *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).