

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARVIN PORTER,	§	
	§	No. 470, 2007
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware in
v.	§	and for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0607005846
Appellee.	§	

Submitted: January 22, 2008

Decided: April 8, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 8th day of April 2008, 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) On June 26, 2007, after a one-day bench trial, the appellant, Marvin Porter, was convicted of one count of Attempted Theft and two counts of Felony Theft. The Superior Court sentenced Porter to three years at Level V suspended for probation. This appeal followed.

(2) On appeal, Porter’s trial counsel (“Counsel”) has filed a brief and a motion to withdraw pursuant to Rule 26(c). The standard and scope of review of a motion to withdraw and an accompanying brief under Rule 26(c)

is two-fold. First, the Court must be satisfied that Counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal.¹ Second, the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.²

(3) Counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. By letter Counsel informed Porter of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw, the accompanying brief and the complete trial transcript. Porter was also informed of his right to supplement Counsel's presentation. Porter did not submit any points for this Court's consideration. The State has responded to the position taken by Counsel and has moved to affirm the Superior Court's judgment.

(4) This Court has reviewed the record carefully and has concluded that Porter's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Counsel has made a

¹ *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).

² *Id.*

conscientious effort to examine the record and the law and has properly determined that Porter 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/Henry duPont Ridgely
Justice