

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KENDALL ROBERTSON,	§
	§
Defendant Below-	§ No. 428, 2007
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0603015797
Plaintiff Below-	§
Appellee.	§

Submitted: March 24, 2008

Decided: June 2, 2008

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

ORDER

This 2nd day of June 2008, upon consideration of the appellant's Supreme Court Rule 26(c) brief, his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) The defendant-appellant, Kendall Robertson, pled guilty to one count each of trafficking in heroin and possession with intent to deliver heroin. The Superior Court sentenced him immediately to a total period of eighteen years at Level V incarceration to be suspended after serving fifteen years for decreasing levels of supervision. This is Robertson's direct appeal.

(2) Robertson's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Robertson's counsel asserts that, based

upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Robertson's attorney informed him of the provisions of Rule 26(c) and provided Robertson with a copy of the motion to withdraw and the accompanying brief. Robertson also was informed of his right to supplement his attorney's presentation. Robertson has raised one issue for this Court's consideration. The State has responded to Robertson's argument as well as the position taken by Robertson'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) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must 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

(4) Robertson's only argument on appeal is that the Superior Court erred in denying his motion to suppress all evidence seized by the State that was obtained as the result of an allegedly illegal administrative search. By

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).

entering a knowing, intelligent, and voluntary guilty plea, however, Robertson waived any right to challenge the constitutionality of the administrative search leading to his arrest.²

(5) This Court has reviewed the record carefully and has concluded that Robertson's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Robertson's counsel has made a conscientious effort to examine the record and the law and has properly determined that Robertson 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

² *Downer v. State*, 543 A.2d 309, 312-13 (Del. 1988).