

IN THE SUPREME COURT OF THE STATE OF DELAWARE

COREY O. HARRIS,	§	
	§	No. 497, 2003
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware, in and
v.	§	for Sussex County, in Cr. A.
	§	Nos. S03-02-0084I, 0085I,
STATE OF DELAWARE,	§	0087I, 0088I.
	§	
Plaintiff Below,	§	
Appellee.	§	Def. ID No. 0301015849

Submitted: February 11, 2004

Decided: April 12, 2004

Before **HOLLAND, STEELE** and **JACOBS**, Justices.

ORDER

This 12th day of April 2004, 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) In July 2003, a Superior Court jury convicted the appellant, Corey O. Harris, of two counts of Possession of a Firearm During the Commission of a Felony and two counts of Aggravated Menacing. Harris was sentenced to a total of ten years at Level V incarceration, suspended after six years for six months at Level IV work release, followed by eighteen months at Level III and one year at Level II supervision. This is Harris' direct appeal.

(2) Harris' counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). In her Rule 26(c)(ii) statement, Harris' counsel represents that she conducted a conscientious review of the record and concluded that there are no meritorious issues upon which to base an appeal. Moreover, Harris' counsel informed him of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw, the accompanying brief and the trial transcript. Counsel informed Harris of his right to supplement the presentation; however, Harris did not respond with any issues for this Court's consideration. The State has responded to the position taken by Harris' 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. First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims. Second, 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.*

* *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).

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