

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANDRE L. JACKSON,	§	
	§	No. 103, 2000
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County
	§	Cr.A.Nos. VS98-08-0147-01
STATE OF DELAWARE,	§	& 1480-01.
	§	
Plaintiff Below,	§	
Appellee.	§	Def. ID No. 9807017034

Submitted: July 17, 2000
Decided: August 8, 2000

Before **VEASEY, Chief Justice, WALSH and BERGER**, Justices.

ORDER

This 8th day of August 2000, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c) ("Rule 26(c)"), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) On November 19, 1998, the appellant, Andre L. Jackson, pleaded guilty to two counts of Possession of a Deadly Weapon by a Person Prohibited and two counts of Aggravated Menacing. Jackson was sentenced to eight years at Level V, suspended after 18 months for one year at Level III, followed by three years at Level II. On February 11,

2000, while on probation for these offenses, Jackson was arrested and charged with Possession with Intent to Deliver Marijuana and Possession of Drug Paraphernalia.¹

(2) On March 6, 2000, Jackson appeared in Superior Court for a violation of probation hearing and admitted the probation violation. Jackson was sentenced to five and one-half years at Level V supervision, with credit for time served, suspended after 18 months, further suspended after successful completion of either the “Six Month Key” or regular Key Program, for one year at Level IV Crest, suspended upon successful completion, for two years and 6 months at Level III with Crest Aftercare.

(3) Jackson’s counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). 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 claims that could arguably support the appeal; and (b) the Court must conduct its own review of the record and determine whether the appeal is so totally

¹On March 21, 2000, Jackson pleaded guilty to Possession with Intent to Deliver Marijuana and was sentenced to five years at Level V, suspended after 6 months, for four years and six months at Level III. *State v. Jackson*, Del. Super., Cr.A.No. S00-02-0396I.

devoid of at least arguably appealable issues that it can be decided without an adversary presentation.²

(4) Jackson's counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. By letter, Jackson's counsel informed Jackson 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. Jackson was also informed of his right to supplement his attorney's presentation. Jackson has chosen not to supplement his attorney's presentation. The State has responded to the position taken by Jackson's counsel and has moved to affirm the Superior Court's judgment.

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

²*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).

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/ E. Norman Veasey
Chief Justice