

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FRANKLIN MOWBRAY,	§
	§
Defendant Below-	§ No. 461, 1999
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN99-07-1147
Plaintiff Below-	§
Appellee.	§

Submitted: April 5, 2000

Decided: May 17, 2000

Before **VEASEY**, Chief Justice, **HOLLAND** and **HARTNETT**, Justices

ORDER

This 17th day of May 2000, 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, Franklin Mowbray, was found guilty by a Superior Court jury of robbery in the first degree. He was sentenced to 8 years of incarceration at Level V, to be suspended after serving 2 years at Level V for decreasing levels of probation.

(2) Mowbray'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 devoid of at least arguably appealable issues that it can be decided without an adversary presentation.*

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

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

**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).

conscientious effort to examine the record and has properly determined that Mowbray 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/Maurice A. Hartnett, III

Justice

