

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |   |                                  |
|--------------------|---|----------------------------------|
| CAREY CARMONA,     | § |                                  |
|                    | § | No. 532, 2004                    |
| Defendant Below,   | § |                                  |
| Appellant,         | § | Court Below--Superior Court      |
|                    | § | of the State of Delaware, in and |
| v.                 | § | for Kent County, in Cr. A. Nos.  |
|                    | § | IK03-06-1125 to 1129.            |
| STATE OF DELAWARE, | § |                                  |
|                    | § |                                  |
| Plaintiff Below,   | § |                                  |
| Appellee.          | § | Def. ID No. 0306011657           |

Submitted: April 22, 2005  
Decided: June 20, 2005

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

**ORDER**

This 20<sup>th</sup> day of June 2005, 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) After a two-day trial on September 8 and 9, 2004, a Superior Court jury convicted the appellant, Carey Carmona, of Burglary in the First Degree, Possession of a Weapon During the Commission of a Felony, Possession of Burglar's Tools, Attempted Theft, and Resisting Arrest. The Superior Court

sentenced Carmona to a total of ten years at Level V suspended after five years for three years of probation.<sup>1</sup> This is Carmona's direct appeal.

(2) Carmona's counsel has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel represents that she provided Carmona with a copy of the motion to withdraw and the Rule 26(c) brief and informed Carmona of his right to supplement the brief with any point that he wanted the Court to consider. Carmona did not submit any points for this Court's consideration. The State has responded to the position taken by Carmona'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 Supreme Court Rule 26(c) is twofold. First, this Court must be satisfied that defense counsel has made a conscientious examination of the record and of the law for arguable

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<sup>1</sup>At the same time, Carmona was also sentenced on charges to which he pleaded guilty on September 28, 2004. *State v. Carmona*, Del. Super., Cr.A. No. IK04-05-0116, Cr. ID No. 0404016969; Cr. A. No. IK04-05-0122, Cr. ID No. 0404017788, Jurden, J. (Nov. 10, 2004).

claims.<sup>2</sup> 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.<sup>3</sup>

(4) The Court has reviewed the record carefully and has concluded that Carmona's appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Carmona's counsel made a conscientious effort to examine the record and the law and properly determined that Carmona 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/ Myron T. Steele  
Chief Justice

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<sup>2</sup>*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).

<sup>3</sup>*Id.*