

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)
) ID No. 0703031898
 v.)
) * * *
 JOHN E. FOSTER,)
) Supreme Court No. 592, 2007
 Defendant.)

ORDER ON REMAND

This 28th day of April, 2008, it appears to the Court that:

1. Defendant John E. Foster filed an appeal from his Superior Court conviction. Prior to the filing of his opening brief on appeal, Foster requested that his counsel be permitted to withdraw and that he be permitted to pursue his appeal *pro se*.
2. Foster filed an affidavit as required by Supreme Court Rule 26(d)(iii), indicating his desire to discharge his attorney and to represent himself in his appeal, notwithstanding his constitutional and statutory right to counsel.
3. The Supreme Court remanded the matter to the Superior Court, pursuant to Supreme Court Rules 19(c) and 26(d)(iii), with jurisdiction retained, directing the trial judge to conduct a hearing on the record and make appropriate findings concerning Foster's affidavit for waiver of counsel.

4. The Superior Court held a hearing on April 25, 2008. At that time, Foster informed the court that he had consulted with his counsel, Kevin J. O'Connell, Esquire, of the Office of the Public Defender. Following consultation, Foster determined to withdraw his request to proceed *pro se*. Foster now intends to pursue his appeal with the assistance of court-appointed counsel.

THEREFORE, the Superior Court finds that Foster's request to pursue his appeal *pro se* has been withdrawn.

IT IS SO ORDERED.

/s/ *Mary M Johnston*

The Honorable Mary M. Johnston