

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

RAIMYA STANDFORD,)
)
 Defendant Below,)
 Appellant,)
)
 v.) ID No. 0605016734
)
 STATE OF DELAWARE,)
)
 Plaintiff Below,)
 Appellee.)

Submitted: September 16, 2008

Decided: December 8, 2008

MEMORANDUM OPINION

Appeal from the Court of Common Pleas. AFFIRMED.

Regina E. Gray, Esquire, Public Defender's Office, 900 N. King Street,
Wilmington, DE 19801. Counsel for Appellant.

Raimya Standford, 32 Teal Circle, Newark, DE 19702.

Joshua D. Klein, Esquire, Department of Justice, 820 N. French Street, Wilmington,
Delaware 19801. Counsel for Appellee.

CARPENTER, J.

Before this Court is Raimya Standford's (the "Appellant") appeal from the Court of Common Pleas. Upon consideration of the Appellant's brief filed pursuant to Supreme Court Rule 26(c), her attorney's Motion to Withdraw, the defendant's statement regarding her appeal, and the State's response thereto, the decision rendered below is hereby AFFIRMED.

1. A Court of Common Pleas jury found the Appellant guilty of Harassment on January 10, 2008. The Court sentenced her to two months of Level V incarceration, suspended for six months at Level II probation, followed by six months of Level I probation. She is also required to pay the following: (1) court costs, (2) a fine of \$100, and (3) various assessments to the Victim's Compensation Fund and the Public Defender's Office. Further, the Appellant is not permitted to have any contact with the victim or the victim's family. This is the Appellant's appeal of that decision.

2. The Appellant's counsel has filed a Motion to Withdraw pursuant to Rule 26(c). Counsel asserts that the Appellant has failed to respond to any correspondence from the Office of the Public Defender and has not spoken with counsel. Counsel delivered to the Appellant the Motion to Withdraw, the Rule 26(c) brief and the trial transcript on July 11, 2008. Counsel further advised the Appellant that she could state, in writing, any points she wanted this Court to consider on appeal. The Appellant submitted a letter to this Court raising some issues for consideration. The State has responded to the Appellant's points, as well as to counsel's Motion to Withdraw, and has moved to affirm the Court of Common Pleas' judgment.

3. The standard and scope of review for a motion to withdraw and a Rule 26(c) brief require the following: (1) “this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims;” and (2) “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 representation.”¹

4. The testimony at trial established that Lakeisha Smith (“Ms. Smith”) has been in a relationship with Dedric Wheeler, the Appellant’s husband, for three years. Ms. Smith testified that the Appellant came to her home late at night on May 16, 2006, banged on the front door and used threatening language. Ms. Smith’s teenage daughter also testified that the Appellant had been at their house that night. The Appellant denied going to Ms. Smith’s house on that date, but did testify that she had been there on other occasions.

5. In response to her counsel’s Rule 26(c) brief, the Appellant has presented a letter explaining her reasons for appealing the case. The Appellant makes the following points in support of her appeal: (1) Ms. Smith testified falsely; (2) she was not given the opportunity to respond to Ms. Smith’s testimony; (3) the prosecutor did not appropriately focus his questions on the date of the incident; and (4) Ms. Smith has threatened her.

¹*Smith v. State*, 2008 WL 3990859, at *1 (Del. Aug. 28, 2008) (citing *Penson v. Ohio*, 488 U.S. 75, 83 (Del. 1988)).

6. The Court has reviewed the record carefully and has concluded that the Appellant's appeal is without merit and devoid of any arguably appealable issues. First, there is no evidence presented to support the Appellant's contention that Ms. Smith testified falsely. It is the province of the jury to determine the credibility of testimony presented at trial, and there is nothing in the record to suggest that the jury did not properly do so.²

7. Second, the Appellant argues that she was not permitted to respond to Ms. Smith's testimony. However, based upon a review of the record, the Court finds that the Appellant did testify at trial, and therefore, was able to respond to Ms. Smith's testimony and counsel cross-examined Ms. Smith regarding the incident. To the extent that the Defendant is claiming that the Court in some manner prevented counsel from fully questioning Ms. Smith, such a claim is not supported by the record. All of the side bar conferences were recorded and the only issue discussed was whether the criminal history of the witnesses could be used during cross examination.

8. Third, while the prosecutor's questions went beyond the incident of May 16, 2006, the Court finds they were appropriate to put the incident on that day in perspective with respect to the ongoing interaction between these individuals.³ To the extent that the Appellant is asserting a claim of prosecutorial misconduct, the Court is not persuaded and finds no colorable claim.

²*Livingston v. State*, 2008 WL 4216024, at *1 (Del. Sept. 16, 2008).

³*See* Trial Tr. at 22, 25, 28-29.

9. Fourth, the Appellant alleges that Ms. Smith has threatened her. Whether Ms. Smith's conduct can be appropriately characterized in this manner is simply not relevant to this case and is not an appealable issue for the Court to consider.

10. Based on the Court's review of the record, the Court is satisfied that the Appellant's counsel has made a conscientious effort to examine the record and the law and has properly determined that the Appellant has no meritorious claim on appeal. Therefore, the judgment of the Court of Common Pleas is affirmed and the Motion to Withdraw is moot.

IT IS SO ORDERED.

Judge William C. Carpenter, Jr.