

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THEODORE W. NEWTON,	§
	§ No. 499, 2007
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0609009531
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 10, 2008

Decided: March 13, 2008

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 13<sup>th</sup> day of March 2008, upon consideration of the appellant's opening brief 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, Theodore W. Newton, was found guilty by a Superior Court jury of Robbery in the First Degree and Wearing a Disguise During the Commission of a Felony. He was sentenced to a total of 8 years of Level V incarceration, to be suspended after 5 years for decreasing levels of supervision. This is Newton's direct appeal.

(2) Newton's trial 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.<sup>1</sup>

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

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

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<sup>1</sup> *Person 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 Newton 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/ Jack B. Jacobs  
Justice