

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SEAN PROSPERO,	§
	§ No. 191, 2008
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. 0703019101
	§
Plaintiff Below-	§
Appellee.	§

Submitted: August 4, 2008
Decided: September 3, 2008

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

ORDER

This 3rd day of September 2008, 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, Sean Prospero, admitted to committing violations of probation in Criminal Action Numbers 07-03-2241-02 (Receiving Stolen Property) and 07-06-0606-01 (Terroristic Threatening). He was sentenced to a total of 31 months at Level V, to be suspended for decreasing levels of supervision.

(2) Prospero’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.*

(3) Prospero's counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. By letter, Prospero's counsel informed Prospero of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw, the accompanying brief and the complete hearing transcript. Prospero also was informed of his right to supplement his attorney's presentation. Prospero has not raised any issues for this Court's consideration. The State has responded to the position taken by Prospero's counsel and has moved to affirm the Superior Court's decision.

(4) This Court has reviewed the record carefully and has concluded that Prospero's appeal is wholly without merit and devoid of any arguably

* *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).

appealable issues. We also are satisfied that Prospero's counsel has made a conscientious effort to examine the record and the law and has properly determined that Prospero 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