

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STANLEY TURNER,	§
	§
Defendant Below-	§ No. 230, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0704010320
Plaintiff Below-	§
Appellee.	§

Submitted: October 3, 2008
Decided: December 15, 2008

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

ORDER

This 15th day of December 2008, 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) The defendant-appellant, Stanley Turner (Turner), was found in violation of the terms of his probation. The Superior Court sentenced him to two years at Level V incarceration to be suspended after serving nine months, in accordance with his probation officer's recommendation. Turner admitted to violating probation but had argued for the imposition of a lesser sentence. This is Turner's direct appeal.

(2) Turner's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Turner's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Turner's attorney informed him of the provisions of Rule 26(c) and provided Turner with a copy of the motion to withdraw and the accompanying brief. Turner also was informed of his right to supplement his attorney's presentation. Turner has not raised any issues for this Court's consideration. The State has responded to the position taken by Turner'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 Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) 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.*

(4) This Court has reviewed the record carefully and has concluded that Turner'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 issue. We also are satisfied that Turner's counsel has made a conscientious effort to examine the record and the law and has properly determined that Turner 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