

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWARD J. WILSON,	§
	§ No. 129, 2009
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. 0801013042
	§
Plaintiff Below-	§
Appellee.	§

Submitted: August 4, 2009

Decided: August 7, 2009

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

ORDER

This 7th day of August 2009, upon consideration of the appellant's opening 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, Edward J. Wilson, was found guilty by a Superior Court jury of Possession of a Deadly Weapon By a Person Prohibited. He was sentenced to 8 years of Level V incarceration, to be suspended after 3 years and 6 months for decreasing levels of supervision. This is Wilson's direct appeal.

(2) Wilson's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Wilson's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Wilson's attorney informed him of the provisions of Rule 26(c) and provided Wilson with a copy of the motion to withdraw and the accompanying brief. Wilson also was informed of his right to supplement his attorney's presentation. Wilson has not raised any issues for consideration by this Court. The State has responded to the position taken by Wilson'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) the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguably appealable issues; 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.¹

¹ *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).

(4) The Court has reviewed the record carefully and has concluded that Wilson's appeal is wholly without merit and devoid of any arguably appealable issues. We also are satisfied that Wilson's counsel has made a conscientious effort to examine the record and the law and has properly determined that Wilson 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