

IN THE SUPREME COURT OF THE STATE OF DELAWARE

VINCENT JEFFERSON,	§
	§ No. 674, 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. 0811013286
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 10, 2010

Decided: June 21, 2010

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

**ORDER**

This 21<sup>st</sup> day of June 2010, upon consideration of the appellant's 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) On July 14, 2009, the defendant-appellant, Vincent Jefferson, was found guilty by a Superior Court jury of Possession With Intent to Deliver Marijuana, Maintaining a Vehicle for Keeping Controlled Substances, Driving an Unregistered Motor Vehicle, Display of a Fictitious Registration, and Driving Without Proof of Insurance. On his first conviction, Jefferson was sentenced to 3 years of Level V incarceration, to be suspended after 2 years for 1 year at Level IV Crest, with the balance of the sentence to be served at Level III probation. On his

second conviction, Jefferson was sentenced to 18 months at Level V. On his three traffic convictions, Jefferson was assessed fines. This is Jefferson's direct appeal.

(2) Jefferson's 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 in order to 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) Jefferson's counsel asserts, based upon a careful and complete examination of the record and the law, that there are no arguably appealable issues. By letter, Jefferson's counsel informed Jefferson 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. Jefferson also was informed of his right to supplement his attorney's presentation. Jefferson responded by raising four points for this Court's consideration. The State has responded to the position taken by Jefferson's counsel as well as the points raised by Jefferson and has moved to affirm the Superior Court's judgment.

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<sup>1</sup> *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) Jefferson raises four points for this Court's consideration, as follows: He asks why he was released on bail after being arrested on traffic charges and then later arrested on drug charges; he asks why an inventory checklist was not completed at the time the police searched his car; he asks why he did not see a chain of custody report or a toxicology report entered into evidence; and, finally, he asks the Court to "take a look at" two Delaware statutes relating to the registration of vehicles.

(5) Our review of the record in this case reveals the following. The probable cause affidavit reflects that, as of November 19, 2008, the vehicle inventory form had been completed and submitted. It also reflects that, as of that time, the seized drugs had been tested, tagged and turned over to the police evidence division, as witnessed by Sergeant Rogers of the Wilmington Police Department. These events were confirmed at trial by Officer Luke Nuzzi.

(6) The evidence presented at the pretrial suppression hearing on April 16, 2009 and later at trial on July 14, 2009 was as follows. On November 5, 2008, Wilmington police officers Luke Nuzzi and Don Palmatary stopped a green 1995 Ford Explorer being driven by Jefferson in the 200 block of Concord Avenue in Wilmington, Delaware. The expiration date on the vehicle's temporary Pennsylvania tag was obscured by a plastic license plate frame. Upon closer inspection, the police ascertained that the registration date had expired. When

requested, Jefferson produced a valid driver's license, but, according to police, did not produce proof of insurance or a vehicle registration. Both at the suppression hearing and at trial, Jefferson insisted that he did produce proof of insurance. There was no dispute that Jefferson told the police that he had just purchased the vehicle but had not yet registered it at Motor Vehicle. The police ran a computer check on the vehicle, which indicated that the vehicle had not been registered in Delaware or Pennsylvania. There was no documentation showing that title to the vehicle had been transferred to Jefferson.

(7) After the police had placed Jefferson in the back of the patrol car, they informed him that he would be charged with motor vehicle offenses and that the vehicle would be towed. They then conducted an inventory search of the vehicle and found in the glovebox a sandwich bag containing 49 ziploc baggies of a substance later determined to be marijuana. Jefferson was then arrested and given his Miranda warnings. Later at the stationhouse, Jefferson was informed that a strip search would be conducted. At that point, according to police, Jefferson pulled from his pants another sandwich bag containing an additional 21 ziploc baggies of a substance later determined to be marijuana. Both at the suppression hearing and at trial, Jefferson denied that he had done so.

(8) The transcript of the suppression hearing on April 16, 2009 reflects that the vehicle inventory form and the written departmental policy for inventory

searches were attached to the State's response to the motion to suppress and admitted into evidence. Officer Nuzzi testified that the search of the Ford Explorer was conducted in accordance with police department policy for inventory searches. Based upon the evidence presented at the hearing, the Superior Court denied the motion to suppress. The Superior Court determined that, because Jefferson's vehicle could not lawfully be driven, it had to be impounded and, once the vehicle was impounded, an inventory of the contents of the vehicle was necessary. As such, the Superior Court concluded, the drug evidence seized as a result of the inventory search was properly admissible at trial.

(9) The trial transcript reflects that the seized drugs were brought to trial by Sergeant Thomas Looney of the Wilmington Police Department and were identified by Officer Nuzzi as the drugs seized during the inventory search. Sergeant Looney testified that, in his expert opinion, the marijuana had been packaged for sale and not for personal consumption. Both at the suppression hearing and at the trial, Jefferson denied any knowledge of the contents of the glove box.

(10) Jefferson's "points" consist of three "why" questions and one request that this Court "take a look at" two statutes relating to the registration of vehicles. As such, none of Jefferson's points either states a claim or presents an issue that is reviewable by this Court. To the extent that Jefferson complains that the motion to

suppress should have been granted,<sup>2</sup> or that there was insufficient evidence presented at trial to support his convictions,<sup>3</sup> or that the State failed to demonstrate an unbroken chain of custody with respect to the drug evidence,<sup>4</sup> or that the jury should not have credited the police officers' version of events,<sup>5</sup> our careful review of the record in this case leads us to conclude that any such complaints are without merit.

(11) This Court has reviewed the record carefully and has concluded that Jefferson's appeal is wholly without merit and devoid of any arguably appealable issues. We also are satisfied that Jefferson's counsel has made a conscientious effort to examine the record and the law and has properly determined that Jefferson 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/ Henry duPont Ridgely  
Justice

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<sup>2</sup> *Lecates v. State*, 987 A.2d 413, 416-17 (Del. 2009).

<sup>3</sup> *Robinson v. State*, 953 A.2d 169, 173 (Del. 2008).

<sup>4</sup> *McNally v. State*, 980 A.2d 364, 371-72 (Del. 2009); Del. Unif. R. Evid. 901(a).

<sup>5</sup> *Pryor v. State*, 453 A.2d 98, 100 (Del. 1982).