

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAMIEN L. ROBINSON,	§
	§ No. 682, 2009
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0904023121
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 21, 2010

Decided: June 28, 2010

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

ORDER

This 28th day of June 2010, 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) On May 6, 2009, the defendant-appellant, Damien L. Robinson, pleaded guilty to one count of Possession of a Controlled Substance with Intent to Deliver. He was sentenced to a term at Level V suspended for probation. Almost immediately, he committed a violation of probation (“VOP”). At a VOP hearing, Robinson admitted the VOP and was sentenced to 6 months incarceration at Level V with no probation. This is Robinson’s direct appeal of his VOP sentence.

(2) Robinson's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Robinson's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Robinson's attorney informed him of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Robinson also was informed of his right to supplement his attorney's presentation. Robinson has not raised any issues for this Court's consideration. The State has responded to the position taken by Robinson'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 to determine whether the appeal is so totally devoid of arguably appealable issues that it can be decided without an adversary presentation.¹

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

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).

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