

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MONIR GEORGE,	§
	§ No. 59, 2010
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. 0805035299
	§
Plaintiff Below-	§
Appellee.	§

Submitted: September 2, 2010

Decided: October 13, 2010

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

ORDER

This 13th day of October 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) The defendant-appellant, Monir George, was charged with Murder in the First Degree, Attempted Murder in the First Degree, Reckless Endangering in the First Degree, and 3 counts of Possession of a Firearm During the Commission of a Felony. Following a Superior Court bench trial, George was found guilty but mentally ill of all of the charges.¹ He was sentenced to life in prison on the first degree murder conviction, to 15 years

¹ Del. Code Ann. tit. 11, § 401(b).

at Level V on the attempted murder conviction, to 1 year at Level V on the reckless endangering conviction, and to 3 years at Level V on each weapon conviction. This is George's direct appeal.

(2) George'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 and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.²

(3) George's counsel asserts that, based upon a careful and complete examination of the record and the law, there are no arguably appealable issues. By letter, George's counsel informed George of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw, the accompanying brief and the complete transcript. George also was informed of his right to supplement his attorney's presentation. George responded with a brief that raises four issues for this Court's consideration.

² *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).

The State has responded to the position taken by George's counsel as well as the issues raised by George and has moved to affirm the Superior Court's judgment.

(4) George raises four issues for this Court's consideration. He claims that a) he was deprived of his constitutional right to testify in his own behalf; b) his execution of the waiver of jury trial form was involuntary; c) one of the mental health experts attempted to bribe him for his testimony; and d) witness statements moved into evidence under Del. Code Ann. tit. 11, §3507 did not comport with the foundational requirements.

(5) The evidence at trial was that, on May 25, 2008 at approximately 7:00 p.m., a fundraising event for St. Mary's Coptic Orthodox Church was being held at the Christiana Hilton in Christiana, Delaware. Malak Michael, a deacon and chief fundraiser for the church, was just finishing a speech to a group of supporters when George approached him and shot him. Michael died on arrival at Christiana Hospital. George also unsuccessfully attempted to shoot Reverend Mina Mina, another member of the church clergy. George was motivated by hatred for the church clergy, whom he believed were corrupt, and by hatred for Michael in particular, whom he blamed for his break-up with his wife.

(6) Testifying at trial were witnesses to the incident, Gigi Phillips, Michael's niece, George Kamel, Vaylet Mikhail, and Sylvia Makar. At the time of the shooting, all four individuals had been on or near the dais where the victim gave his speech. Phillips and Kamel assisted in disarming George after the shooting. Carl Rone, a firearms expert, testified regarding the two Smith & Wesson semi-automatic weapons George brought with him to the hotel. A number of witnesses testified concerning George's pattern of animosity toward the church clergy and his depressed mood prior to the incident. Three experts from the Delaware Psychiatric Center---Robert Thompson, Ph.D., a forensic psychologist, Carol Tavani, M.D., a psychiatrist, and Stephen Mechanick, M.D., also a psychiatrist, testified concerning George's mental state at the time of the incident. Drs. Thompson and Mechanick opined that George was mentally ill at the time of the shooting. Dr. Tavani opined that he was insane at the time of the shooting.

(7) Our review of the record in this case reflects no factual support for any of George's claims. As for his first two claims, the record reflects that, before trial, the trial judge carefully questioned George regarding his decision to waive a jury trial and that, during trial, the judge carefully questioned him concerning his decision not to testify in his own behalf. The

record reflects that George's decisions to waive a jury trial and to waive his right to testify were knowing and voluntary. The record likewise does not support George's third claim that one of the testifying mental health experts asked him for a bribe. As for George's fourth, and final, claim, the record reflects that two out-of-court statements were admitted into evidence under §3507. In neither case is there any support for George's claim that the proper foundational requirements of the statute were not met.³

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

³ *Woodlin v. State*, Del. Supr., No. 44, 2009, Holland, J. (July 22, 2010) (*en Banc*).