

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES A. BOYCE,	§
	§ No. 638, 2010
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. 0911001541
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 12, 2011

Decided: June 14, 2011

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 14th day of June 2011, 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, James A. Boyce, was found guilty by a Superior Court jury of Disregarding a Police Officer’s Signal, Driving the Wrong Way on a One Way Street and Resisting Arrest.¹ He was sentenced to a total of 2 years at Level V incarceration, to be suspended for 2 years at Level IV Work Release, in turn to be suspended after 6 months. Boyce also was assessed fines. This is Boyce’s direct appeal.

¹ The misdemeanor charge of Resisting Arrest was later dismissed by the State.

(2) Boyce's counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). Boyce's counsel asserts that, based upon a complete and careful examination of the record and the law, there are no arguably appealable issues. By letter, Boyce'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. Boyce also was informed of his right to supplement his attorney's presentation. Boyce has not raised any issues for this Court's consideration. The State has responded to the position taken by Boyce's counsel and has moved to affirm the Superior Court's decision.

(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.²

(4) This Court has reviewed the record carefully and has concluded that Boyce's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Boyce's counsel has made a

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).

conscientious effort to examine the record and the law and has properly determined that Boyce 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/ Carolyn Berger
Justice