IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYWAAN JOHNSON,	§	
	§	No. 157, 2012
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware in
v.	§	and for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0909001526
Appellee.	§	

Submitted: August 13, 2012
Decided: October 18, 2012

Before **STEELE,** Chief Justice, **HOLLAND** and **BERGER**, Justices.

O R D E R

This 18th day of October 2012, 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, it appears to the Court that:

(1) On May 5, 2010, a Superior Court jury found the appellant, Tywaan Johnson, guilty of Assault in the Third Degree and Conspiracy in the Third Degree. On March 31, 2012, the Superior Court sentenced Johnson to a total of two years at Level suspended after one year for one year at Level III. This is Johnson's direct appeal.

(2) Johnson's appellate counsel ("Counsel")[1] has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c) ("Rule 26(c)").[2] Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. The record reflects that Counsel provided Johnson, as required, with a copy of the motion, the brief and appendix, and a letter explaining that Johnson had a right to submit written points for the Court's consideration.[3] Counsel reports that Johnson responded in a July 5, 2012 letter that raised questions concerning a different, unrelated criminal matter that was on appeal, but that he did not submit any points concerning this matter.[4] The State has moved to affirm the Superior Court's judgment.

(3) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims.[5] The Court must also conduct its own review of the record and

[1] Johnson was represented by different counsel at trial.
[2] *See* Del. Supr. Ct. R. 26(c) (governing criminal appeals without merit).
[3] *Id.*
[4] The Court takes judicial notice of Johnson's unrelated criminal matter, *Johnson v. State*, Del. Supr., No. 172, 2012; s*ee* docket at 11 (Sep. 7, 2012) (order affirming Superior Court judgments in Cr. ID No. 1007020056).
[5] *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).

determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.[6]

(4) In this case, the Court has reviewed the record carefully and has concluded that Johnson's appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Counsel made a conscientious effort to examine the record and the law and properly determined that Johnson could not raise a meritorious claim on 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/ Randy J. Holland
Justice

[6] *Id.*