

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DERRICK L. JACKSON,	§	
	§	
Defendant Below-	§	No. 91, 2002
Appellant,	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr.A. Nos. IN00-09-0382,0383
Plaintiff Below-	§	0385,0386
Appellee.	§	

Submitted: July 10, 2002
Decided: August 16, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices

ORDER

This 16th day of August 2002, 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, Derrick L. Jackson, was found guilty by a Superior Court jury of two counts of Burglary in the Second Degree and two counts of Theft. Jackson was sentenced as an habitual offender and received a sentence of 10 years incarceration at Level V on each of his burglary convictions.¹ On each of his theft convictions, Jackson was sentenced to 1 year incarceration at

¹DEL. CODE ANN. tit 11, § 4214(a).

Level V, to be suspended for 1 year at Level II probation. This is Jackson's direct appeal.

(2) Jackson's trial 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) Jackson's counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. By letter, Jackson's counsel informed Jackson of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw, the accompanying brief and the complete hearing transcript. Jackson was also informed of his right to supplement his attorney's presentation. Jackson has chosen not to supplement his attorney's presentation. The State has responded to the position taken by Jackson's counsel and has moved to affirm the Superior Court's judgment.

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).

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