

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SYLVESTER PETTYJOHN,	§
	§ No. 176, 2015
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID 1403021039
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 16, 2015

Decided: October 27, 2015

Before **HOLLAND**, **VALIHURA**, and **VAUGHN**, Justices.

**ORDER**

This 27<sup>th</sup> day of October 2015, upon consideration of the appellant's Supreme Court Rule 26(c) brief, his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) In October 2014, a Superior Court jury convicted the defendant-appellant, Sylvester Pettyjohn, of one count of Drug Dealing. The Superior Court sentenced Pettyjohn, effective March 29, 2014, to four years at Level V incarceration, to be followed by six months at Level IV. This is Pettyjohn's direct appeal.

(2) Pettyjohn's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Pettyjohn's counsel asserts that, based upon

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

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

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<sup>1</sup> *Person 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 Pettyjohn 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:

A handwritten signature in blue ink, appearing to read "R. J. Hall", is written over a horizontal line.

Justice