

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH G. WALLACE,	§
	§ No. 385, 2015
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID Nos. 1403009237A,
	§ 1403017509A, 1506006408
Plaintiff Below,	§
Appellee.	§

Submitted: December 11, 2015  
Decided: December 22, 2015

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

**ORDER**

This 22<sup>nd</sup> day of December 2015, upon consideration of the appellant's Supreme Court Rule 26(c) brief, the State's response, and the record below, it appears to the Court that:

(1) On January 30, 2015, a Superior Court jury found the appellant, Joseph G. Wallace, guilty of four counts of Theft of a Firearm, three counts of Criminal Mischief Less Than \$1,000, two counts of Criminal Trespass in the Third Degree, and one count each of Theft From a Senior, Theft Greater Than \$1,500, and Selling Stolen Property Less Than \$1,500. For these convictions, Wallace was sentenced to a total of seventeen years of Level V incarceration, with credit for eighty days previously served, suspended after successful completion of the Level

V Key Program for decreasing levels of supervision. This is Wallace's direct appeal.

(2) On appeal, Wallace's counsel ("Counsel") filed a brief and a motion to withdraw under Supreme Court Rule 26(c) ("Rule 26(c)"). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel informed Wallace of the provisions of Rule 26(c) and provided Wallace with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Wallace of his right to identify any points he wished this Court to consider on appeal. Wallace has not raised any issues for this Court's consideration. The State has responded to the Rule 26(c) brief and has moved to affirm the Superior Court's judgment.

(4) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must: (i) be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (ii) 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>

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<sup>1</sup> *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *Leacock v. State*, 690 A.2d 926, 927-28 (Del. 1996).

(5) This Court has reviewed the record carefully and has concluded that the Wallace's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Wallace's counsel has made a conscientious effort to examine the record and the law and has properly determined that Wallace could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Karen L. Valihura  
Justice