

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTONIO FELICIANO,

Defendant Below,  
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,  
Appellee.

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§ No. 627, 2014

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§ Court Below—Superior Court

§ of the State of Delaware,

§ in and for New Castle County

§ Cr. ID No. 1307015825

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Submitted: May 20, 2015

Decided: June 12, 2015

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

**ORDER**

This 12<sup>th</sup> day of June, 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 April 25, 2014, after a one day bench trial, the Superior Court found the appellant, Antonio Feliciano, guilty of Burglary in the Second Degree and Theft under \$1,500 as a lesser included offense of Theft over \$1,500. After granting the State's amended motion to declare Feliciano a habitual offender under 11 *Del. C.* § 4214(a), the Superior Court sentenced Feliciano to eight years of Level V incarceration for Burglary in the Second Degree and six months of Level

V incarceration, suspended for six months of Level II probation, for Theft under \$1,500.<sup>1</sup> This is Feliciano's direct appeal.

(2) On appeal, Feliciano's trial counsel filed a motion for leave to withdraw. We granted the motion and the Office of the Public Defender entered an appearance on behalf of Feliciano ("Counsel"). Counsel then 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 Feliciano of the provisions of Rule 26(c) and provided Feliciano with a copy of the motion to withdraw and the accompanying brief.

(3) Counsel also informed Feliciano of his right to identify any points he wished this Court to consider on appeal. Feliciano has not raised any issues for this Court to consider. Feliciano informed Counsel that he intends to pursue postconviction relief after conclusion of this appeal. The State has responded to the Rule 26(c) brief and 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) must conduct its own review of the record and determine whether the appeal is so

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<sup>1</sup> Feliciano was also sentenced for convictions arising from his guilty plea in Criminal ID No. 1401004088.

totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.<sup>2</sup>

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



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Justice

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