

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARCUS HENDERSON,	§
	§ No. 95, 2016
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§
	§ Cr. ID 1601006965
Plaintiff Below-	§
Appellee.	§

Submitted: July 8, 2016
Decided: July 20, 2016

Before **STRINE**, Chief Justice; **HOLLAND**, and **VALIHURA**, Justices.

ORDER

This 20th day of July 2016, 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) On February 16, 2016, the defendant-appellant, Marcus Henderson, pled guilty to one count each of Possession of a Firearm by a Person Prohibited, Drug Dealing, and Receiving a Stolen Firearm. The Superior Court immediately sentenced Henderson to a total period of twenty-six years at Level V incarceration, to be suspended after serving three years in prison and successful completion of the Key Program for decreasing levels of supervision. This is Henderson's direct appeal.

(2) Henderson's counsel on appeal has filed a brief and a motion to withdraw under Rule 26(c). Henderson's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Henderson's attorney informed him of the provisions of Rule 26(c) and provided Henderson with a copy of the motion to withdraw and the accompanying brief. Henderson also was informed of his right to supplement his attorney's presentation. Henderson did not file any points for this Court's consideration. The State has responded to the position taken by Henderson's counsel and has moved to affirm the Superior Court's judgment.

(3) This Court's review of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (i) we must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (ii) we must conduct our 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.¹

(4) The Court has reviewed the record carefully and has concluded that Henderson's appeal is wholly without merit and devoid of any arguably

¹ *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).

appealable issue. We also are satisfied that Henderson's counsel has made a conscientious effort to examine the record and the law and has properly determined that Henderson 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/ Randy J. Holland

Justice