

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |                               |
|--------------------|-------------------------------|
| JERRY GRUSSING,    | §                             |
|                    | § No. 592, 2016               |
| Defendant Below-   | §                             |
| Appellant,         | §                             |
|                    | §                             |
| v.                 | § Court Below: Superior Court |
|                    | § of the State of Delaware    |
| STATE OF DELAWARE, | §                             |
|                    | § Cr. ID 1509000035 (N)       |
| Plaintiff Below-   | §                             |
| Appellee.          | §                             |

Submitted: May 11, 2017  
Decided: June 5, 2017

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

**ORDER**

This 5th day of June 2017, upon consideration of the appellant's Supreme Court Rule 26(c) brief, his attorney's motion to withdraw, and the State's response, it appears to the Court that:

(1) In November 2016, a Superior Court jury convicted the appellant, Jerry Grussing, of DUI and speeding. Because it was Grussing's third conviction, the Superior Court sentenced him to a total period of two years at Level V incarceration, to be suspended immediately after 90 days for one year of probation. This is Grussing's direct appeal.

(2) Grussing's counsel on appeal has filed a brief and a motion to withdraw under Rule 26(c). Grussing's counsel asserts that, after a complete and careful

examination of the record, there are no arguably appealable issues. By letter, Grussing's attorney informed him of the provisions of Rule 26(c) and provided Grussing with a copy of the motion to withdraw and the accompanying brief. Grussing also was informed of his right to supplement his attorney's presentation. Grussing has not raised any issues for this Court's consideration. The State has responded to the position taken by Grussing'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.\*

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

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\**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).

to examine the record and the law and has properly determined that Grussing 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/ Leo E. Strine, Jr.* \_\_\_\_\_

Chief Justice