

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CARLOS TORRES,	§
	§ No. 608, 2018
Defendant Below,	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§
	§ Cr. ID 1708002168 (N)
Plaintiff Below,	§
Appellee.	§

Submitted: May 6, 2019
Decided: June 12, 2019

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

ORDER

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) On July 30, 2018, the appellant, Carlos Torres, pleaded guilty to one count of second degree assault and one count of endangering the welfare of a child. The Superior Court ordered a presentence investigation. On November 30, 2018, the Superior Court sentenced Torres to a total of nine years of Level V incarceration, suspended after three years for eighteen months of Level III probation. This is Torres’ direct appeal.

(2) Torres’ counsel on appeal has filed a brief and a motion to withdraw under Rule 26(c). Counsel asserts that, after a complete and careful examination of

the record, there are no arguably appealable issues. Torres' attorney informed him of the provisions of Rule 26(c) and provided Torres with a copy of the motion to withdraw and the accompanying brief. Counsel informed Torres of his right to supplement his attorney's presentation. Torres did not file a written response raising any issues for this Court's consideration. The State has responded to the position taken by Torres' 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.¹

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

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).

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/ Gary F. Traynor
Justice