

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MELVIN FINNEY,	§
	§
Defendant Below,	§ No. 432, 2019
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1802014360 (N)
	§
Plaintiff Below,	§
Appellee.	§

Submitted: April 8, 2020
Decided: June 3, 2020

Before **SEITZ**, Chief Justice; **VALIHURA** and **MONTGOMERY-REEVES**, Justices.

ORDER

After consideration of the brief and motion to withdraw filed by the appellant’s counsel under Supreme Court Rule 26(c), the State’s response, and the record on appeal, it appears to the Court that:

(1) After an initial indictment on July 30, 2018 for various sexual offenses involving two of his grandchildren, on March 4, 2019, a grand jury reindicted the appellant, Melvin Finney, for seven counts of Sexual Abuse of a Child by a Person in a Position of Trust, Authority, or Supervision First Degree (“SACPPT”); one count of Attempted SACPPT; two counts of Continuous Sexual Abuse of a Child; two counts of Unlawful Sexual Contact First Degree; and four counts of Rape First

Degree. Finney waived his right to a jury trial, and the matter proceeded to a two-day bench trial in the Superior Court beginning on May 14, 2019. Before trial began, the State dismissed two counts of SACPPT and one count of first-degree rape.

(2) At the conclusion of the trial, the Superior Court found Finney guilty of three counts of SACPPT, two counts of first-degree unlawful sexual contact, one count of first-degree rape, and one count of continuous sexual abuse of a child. The court acquitted Finney of the remaining charges. On September 20, 2019, the Superior Court sentenced Finney to a total of 131 years of incarceration, suspended after 115 years for decreasing levels of supervision. This is Finney's direct appeal.

(3) On appeal, Finney's counsel has filed a brief and a motion to withdraw under Supreme Court Rule 26(c). Finney's counsel asserts that, based upon a conscientious review of the record and the law, the appeal is wholly without merit. In his statement filed under Rule 26(c), counsel indicates that he informed Finney of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Counsel also informed Finney of his right to submit points he wanted this Court to consider on appeal. Finney has not submitted any points for the Court's consideration. The State has responded to the Rule 26(c) brief and argues that the Superior Court's judgment should be affirmed.

(4) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must be satisfied that the appellant's counsel has made

a conscientious examination of the record and the law for arguable claims.¹ This Court must also conduct its own review of the record and determine whether “the appeal is indeed so frivolous that it may be decided without an adversary presentation.”²

(5) The Court has reviewed the record carefully and concluded that the appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that counsel made a conscientious effort to examine the record and the law and properly determined that Finney could not raise a meritorious claim on 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/ Collins J. Seitz, Jr.
Chief Justice

¹ *Penson v. Ohio*, 488 U.S. 75, 82-83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

² *Penson*, 488 U.S. at 82.