

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT H. WALTER,	§
	§
Defendant Below-	§ No. 53, 2001
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN96-01-1295
Plaintiff Below-	§
Appellee.	§

Submitted: May 31, 2001  
Decided: June 14, 2001

Before **VEASEY**, Chief Justice, **WALSH**, and **HOLLAND**, Justices.

**ORDER**

This 14<sup>th</sup> day of June 2001, 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 6, 2001, the Superior Court found the defendant-appellant, Robert H. Walter, guilty of a probation violation and sentenced him to Level V incarceration for nine months, to be suspended for one year at Level IV (CREST), to be suspended for Level III probation upon successful completion of the CREST program. This is Walter's appeal from that sentence.

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

(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.\*

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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).

(4) This Court has reviewed the record carefully and has concluded that Walter's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Walter's counsel has made a conscientious effort to examine the record and the law and has properly determined that Walter 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/ Joseph T. Walsh  
Justice