

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRADFORD E. WILSON,	§
	§
Defendant Below-	§ No. 54, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN99-04-0310
Plaintiff Below-	§
Appellee.	§

Submitted: January 30, 2001  
Decided: February 26, 2001

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

**ORDER**

This 26<sup>th</sup> day of February 2001, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) The defendant-appellant, Bradford Wilson, pleaded guilty, pursuant to Superior Court Criminal Rule 11(e)(1)(C), to second degree unlawful sexual contact and harassment. The Superior Court sentenced Wilson to 2½ years in jail suspended after 6 months for 2 years probation. This is Wilson's direct appeal.

(2) Wilson's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Wilson's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Wilson's attorney informed him of the provisions of Rule 26(c) and provided Wilson with a copy of the motion to withdraw and the accompanying brief. Wilson also was informed of his right to supplement his attorney's presentation. Wilson has raised several issues for this Court's consideration. The State has responded to the position taken by Wilson's counsel as well as the points raised by Wilson 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.<sup>1</sup>

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<sup>1</sup>*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) To the extent Wilson contends that he is innocent of the charges to which he pled guilty and that the State's evidence against him was insufficient to sustain a guilty verdict, his guilty plea precludes our consideration of that issue.<sup>2</sup> To the extent he argues that his sentence was in excess of the SENTAC guidelines, it is established Delaware law that a defendant has no legal or constitutional right to appeal a statutorily authorized sentence simply because it does not conform to the sentencing guidelines established by the Sentencing Accountability Commission.<sup>3</sup> Finally, to the extent Wilson argues that his counsel provided ineffective assistance, this Court will not consider such a claim for the first time on direct appeal.<sup>4</sup>

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

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<sup>2</sup>*Smallwood v. State*, Del. Supr., No. 115, 1991, order at ¶ 2 (June 14, 1991) (citing *United States v. Broce*, 488 U.S. 563 (1989)).

<sup>3</sup>*Gaines v. State*, Del. Supr., 571 A.2d 765 (1990).

<sup>4</sup>*Duross v. State*, Del. Supr., 494 A.2d 1265, 1267-68 (1985).

effort to examine the record and has properly determined that Wilson 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/ E. Norman Veasey  
Chief Justice