

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SHACIN M. PATEL,	§
	§
Defendant Below-	§ No. 718, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN01-10-0919 and
Plaintiff Below-	§ -0920
Appellee.	§

Submitted: May 13, 2003

Decided: June 10, 2003

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

ORDER

This 10th day of June 2003, 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) The defendant-appellant, Shacin Patel, and his codefendant, Mohammed Najem,¹ were convicted by a Superior Court jury of felony theft and second degree conspiracy. The Superior Court sentenced Patel on both charges to a total period of two years at Level V incarceration suspended entirely for two years probation. This is Patel's direct appeal.

¹ Najem, through his trial counsel, filed a separate appeal in case No. 3, 2003.

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

(4) This Court has reviewed the record carefully and has concluded that Patel's appeal is wholly without merit and devoid of any arguably

² *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).

appealable issue. We also are satisfied that Patel's counsel has made a conscientious effort to examine the record and the law and has properly determined that Patel 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