

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSE NATAL,	§
	§
Defendant Below-	§ No. 229, 2003
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN02-11-0414 and 0415
Plaintiff Below-	§ Cr. ID 0210012158
Appellee.	§
	§

Submitted: September 3, 2003
Decided: October 20, 2003

Before **HOLLAND, BERGER,** and **STEELE,** Justices.

ORDER

This 20th day of October 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, Jose Natal, was convicted by a Superior Court jury of first degree robbery and criminal impersonation. The Superior Court sentenced Natal to four years at Level V imprisonment to be suspended after two years for two years of probation. At trial, the State presented the testimony of several witnesses who were involved in attempting to stop Natal as he walked out of a grocery store with a cartful of groceries for which he had not paid. Natal

struggled with the store manager, who was injured during the struggle. Natal did not testify at trial. His defense was that the State had failed to prove first degree robbery and criminal impersonation beyond a reasonable doubt. This is Natal's direct appeal.

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

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

* *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).