

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRUCE McNEILL,	§
	§
Defendant Below-	§ No. 1, 2003
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. VN01-01-1248-01
Plaintiff Below-	§
Appellee.	§

Submitted: June 13, 2003

Decided: July 18, 2003

Before **VEASEY**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 18th day of July 2003, 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, Bruce McNeill, was found to be in violation of probation (“VOP”) and was sentenced to one-year incarceration at Level V, to be suspended for decreasing levels of probation. This is McNeill’s direct appeal of his VOP sentence.

(2) McNeill’s counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). 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) the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal; and (b) the 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.¹

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

(4) This Court has reviewed the record carefully and has concluded that McNeill's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that McNeill's counsel has made a

¹*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).

conscientious effort to examine the record and the law and has properly determined that McNeill 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/ Randy J. Holland
Justice