

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LARRY SAUNDERS,	§
	§
Defendant Below-	§ No. 311, 2011
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware, in and
STATE OF DELAWARE,	§ for New Castle County
	§ Cr. ID 1008019055
Plaintiff Below-	§
Appellee.	§

Submitted: November 4, 2011
Decided: December 21, 2011

Before **HOLLAND, JACOBS, and RIDGELY**, Justices.

ORDER

This 21st day of December 2011, 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 -appellant, Larry Saunders, pled guilty on March 15, 2011 to one count of first degree robbery. The Superior Court sentenced Saunders to a period of eight years at Level V incarceration to be suspended after serving five years for decreasing levels of supervision. This is Saunders' direct appeal.

(2) Saunders' counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Saunders' counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By

letter, Saunders' attorney informed him of the provisions of Rule 26(c) and provided a copy of the motion to withdraw and the accompanying brief. Saunders also was informed of his right to supplement his attorney's presentation. Saunders has raised several issues for this Court's consideration. The State has responded to Saunders' issues, as well as to the position taken by Saunders' counsel, and has moved to affirm the Superior Court's judgment.

(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.¹

(4) Saunders has enumerated two issues in response to his counsel's motion to withdraw. First, he contends that his charges should be dismissed because the State is not a legal person and cannot legally bring charges against him. Second, he contends that he has newly discovered evidence that the Superior Court lacked jurisdiction to convict and sentence him because the American flag in the

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).

courtroom was fringed in gold, thus making the court a military tribunal, which had no jurisdiction over him as a civilian.

(5) We find no merit to Saunders' frivolous claims. The Department of Justice and the Attorney General of the State of Delaware are vested with legal authority to pursue charges in criminal proceedings occurring within the boundaries of the State.² Moreover, the Superior Court has personal and subject matter jurisdiction over all adults indicted on felony charges in the State of Delaware.³ There is no merit to Saunders' contention that either the State or the Superior Court lacked jurisdiction to convict him.

(6) This Court has reviewed the record carefully and has concluded that Saunders' appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Saunders' counsel has made a conscientious effort to examine the record and the law and has properly determined that Saunders 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/ Jack B. Jacobs
Justice

² See DEL. CODE ANN. tit. 29 §§ 101, 2504(6) (2003).

³ See DEL. CONST. art. IV, § 7; DEL. CODE ANN. tit. 11, § 2701(c) (2007).