

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRIAN JONES,	§
	§ No. 320, 2011
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 1006012725A
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 27, 2011
Decided: November 10, 2011

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

ORDER

This 10th day of November 2011, upon consideration of the appellant's brief 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, Brian Jones, entered a plea of guilty to two counts of Rape in the Second Degree. He was sentenced to a total of 50 years of Level V incarceration, to be suspended after 40 years for decreasing levels of supervision. This is Jones's direct appeal.

(2) Jones's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Jones's counsel asserts that, based upon a

complete and careful examination of the record, there are no arguably appealable issues. By letter, Jones's attorney informed him of the provisions of Rule 26(c) and provided Jones with a copy of the motion to withdraw, the accompanying brief and the transcripts of the plea and sentencing. Jones also was informed of his right to supplement his attorney's presentation. Jones has not raised any issues for this Court's consideration. The State has responded to the position taken by Jones's 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 in order to 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) This Court has reviewed the record carefully and has concluded that Jones's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Jones'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 Jones 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/ Carolyn Berger
Justice