

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EMMET T. ADKINS,	§
	§
Defendant Below-	§ No. 407, 2000
Appellant,	§
v.	§ Court Below--Superior Court
	§ of the State of Delaware in and
	§ for Sussex County in Cr.A.Nos.
STATE OF DELAWARE,	§ S99-11-0172I - 0174I.
	§
Plaintiff Below-	§
Appellee.	§ Def. ID No. 9907010842

Submitted: March 8, 2001  
Decided: March 26, 2001

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

**ORDER**

This 26<sup>th</sup> day of March 2001, upon consideration of the appellant's brief pursuant to Supreme Court Rule 26(c) ("Rule 26(c)"), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) After a three-day trial in May 2000, a Superior Court jury convicted the appellant, Emmet T. Adkins, of Second Degree Arson, Insurance Fraud, and Second Degree Conspiracy. On August 4, 2000, Adkins was sentenced to four years at Level V, suspended for six months

at Level IV Work Release, followed by three and one-half years of probation. Adkins was also ordered to pay a \$1,000 fine and \$23,477.60 in restitution to American Bankers Insurance. This is Adkins' direct appeal.

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

(4) The Court has reviewed the record carefully and has concluded that Adkins' appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Adkins' counsel has made a conscientious effort to examine the record and has properly determined that Adkins 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

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\* *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).