

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GILBERT DeLEON,	§
	§
Defendant Below-	§ No. 450, 2000
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware in and
	§ for Sussex County in Cr.A.Nos.
STATE OF DELAWARE,	§ S00-03-0028I and 0029I.
	§
Plaintiff Below-	§
Appellee.	§ Def. ID No. 0002017923

Submitted: February 8, 2001

Decided: March 12, 2001

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

ORDER

This 12th 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) A Superior Court jury convicted the appellant, Gilbert DeLeon, of two offenses: Possession of a Deadly Weapon during the Commission of a Felony and Assault in the Second Degree. This is DeLeon’s direct appeal.

(2) DeLeon’s counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). DeLeon’s counsel asserts that, based upon a

complete and careful examination of the record, there are no arguably appealable issues. By letter, DeLeon's counsel informed DeLeon of the provisions of Rule 26(c) and provided DeLeon with a copy of the motion to withdraw, the Rule 26(c) brief and the complete trial transcript. Counsel also informed DeLeon of his right to supplement counsel's presentation. By letter dated December 29, 2000, DeLeon responded to his counsel's letter and Rule 26(c) documents. DeLeon did not, however, raise cognizable issues for this Court's consideration. The State has responded to DeLeon's December 29 letter, the position taken by DeLeon'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) 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.*

* *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).

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