

IN THE SUPREME COURT OF THE STATE OF DELAWARE

VAUGHN M. GRIFFIN,	§	
	§	No. 201, 2002
Defendant Below,	§	
Appellant,	§	Court Below-Superior
	§	Court of the State of Delaware,
v.	§	in and for Sussex County in
	§	Cr. ID Nos. 0008007291
STATE OF DELAWARE,	§	0201008289
	§	0112010903
Plaintiff Below,	§	
Appellee.	§	

Submitted: August 2, 2002  
Decided: October 7, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices.

**ORDER**

This 7<sup>th</sup> day of October 2002, 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) On April 2, 2002, Vaughn M. Griffin pleaded guilty and was sentenced in the Superior Court on charges of Attempted Assault in the Second Degree, Resisting Arrest, Criminal Mischief, Criminal Trespass in the Second Degree and two charges for which he had a stipulated trial, *i.e.*, Possession with

Intent to Deliver Cocaine and Possession of Drug Paraphernalia.<sup>1</sup> Griffin was sentenced to a total of nine years at Level V incarceration, suspended upon successful completion of the Key Program, for twelve months at Level IV Crest, suspended upon successful completion for two and one-half years at Level III Crest Aftercare, followed by two years of Level III and one year at Level II supervision. This appeal followed.

(2) On appeal, Griffin'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 two-fold. First, 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. Second, the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least

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<sup>1</sup>Griffin entered the drug diversion program on November 17, 2000. He was terminated from the program on March 11, 2002. *State v. Griffin*, Del. Super., Cr. ID No. 0008007291, Graves, J. (Mar. 11, 2002).

arguably appealable issues that it can be decided without an adversary presentation.<sup>2</sup>

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

(4) This Court has reviewed the record carefully and has concluded that Griffin's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Griffin's counsel has made a conscientious effort to examine the record and the law and has properly determined that Griffin could not raise a meritorious claim in this appeal.

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<sup>2</sup>*Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 428, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

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/ E. Norman Veasey  
Chief Justice