

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WESLEY MONROE,	§
	§
Defendant Below-	§ No. 414, 2002
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr.A. No. IN01-02-2220
	§ Cr. ID 0102003116
Plaintiff Below-	§
Appellee.	§

Submitted: December 31, 2002

Decided: January 15, 2003

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

**ORDER**

This 15<sup>th</sup> day of January 2003, 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 defendant-appellant, Wesley Monroe, was convicted by a Superior Court jury of first degree robbery. The Superior Court sentenced Monroe to two and a half years at Level V incarceration to be suspended after serving two years for probation. This is Monroe's direct appeal.

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

appealable issues. By letter, Monroe's attorney informed him of the provisions of Rule 26(c) and provided Monroe with a copy of the motion to withdraw and the accompanying brief. Monroe also was informed of his right to supplement his attorney's presentation. Monroe has not raised any issues for this Court's consideration. The State has responded to the position taken by Monroe's counsel and has moved to affirm the Superior Court's decision.

(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.\*

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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).

(4) This Court has reviewed the record carefully and has concluded that Monroe's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Monroe's counsel has made a conscientious effort to examine the record and the law and has properly determined that Monroe 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/ E. Norman Veasey  
Chief Justice