

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ARMANDO RODRIGUEZ,	§	
	§	No. 406, 2012
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware, in
v.	§	and for New Castle County
	§	
STATE OF DELAWARE,	§	Cr. ID No. 1109019942
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: February 25, 2013

Decided: April 26, 2013

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

**ORDER**

This 26<sup>th</sup> day of April 2013, 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, it appears to the Court that:

(1) On March 9, 2012, a Superior Court jury found the appellant, Armando Rodriguez, guilty of Possession with Intent to Deliver Cocaine. After a pre-sentence investigation, the Superior Court sentenced Rodriguez to eight years at Level V suspended after two years for decreasing levels of supervision. This is Rodriguez’ direct appeal.

(2) Rodriguez' appellate counsel has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c).<sup>1</sup> Rodriguez' counsel asserts that, based upon a complete and careful examination of the record, there is no arguably appealable issue. Rodriguez' counsel also reports that Rodriguez did not submit any points for the Court's consideration.<sup>2</sup> The State moves to affirm the Superior Court judgment.

(3) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), the Court must be satisfied that the appellant's counsel has made a conscientious examination of the record and the law for any arguable claims.<sup>3</sup> The Court must also conduct its own review of the record and determine whether the appeal is so totally devoid of any arguably appealable issue that it can be decided without an adversary presentation.<sup>4</sup>

(4) In this case, the Court has reviewed the record carefully and has concluded that Rodriguez' appeal is wholly without merit and is devoid of any arguably appealable issue. We are satisfied that Rodriguez' appellate

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<sup>1</sup> See DEL. SUPR. CT. R. 26(c) (governing criminal appeals without merit).

<sup>2</sup> The record reflects that Rodriguez' counsel provided Rodriguez, as required, with a copy of the motion, brief, and appendix, and a letter explaining that Rodriguez had a right to submit written points for the Court's consideration. *See id.*

<sup>3</sup> *Penson v. Ohio*, 488 U.S. 75, 82-83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

<sup>4</sup> *See supra* note 3.

counsel has made a conscientious effort to examine the record and the law and properly determined that Rodriguez could not raise a meritorious claim on 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/ Jack B. Jacobs  
Justice