

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY WADE,	§
	§
Defendant Below-	§ No. 610, 1999
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN97-111-466
Plaintiff Below-	§ IN97-111-467
Appellee.	§

Submitted: September 5, 2000

Decided: October 6, 2000

Before **WALSH, HOLLAND** and **BERGER**, Justices

ORDER

This 6th day of October 2000, 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) The defendant-appellant, Anthony Wade, was found guilty by a Superior Court jury of murder in the second degree and possession of a deadly weapon during the commission of a felony. On the murder charge, Wade was sentenced to 20 years incarceration at Level V, with credit for time served. On the charge of possession of a deadly weapon, Wade was sentenced to 12 years incarceration at Level V, to be suspended after 8

years for 4 years at Level IV, to be suspended after 6 months for the balance of the sentence at Level III supervision. This is Wade's direct appeal.

(2) Wade'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 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.¹

(3) Wade's counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. By letter, Wade's counsel informed Wade of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw, the accompanying brief and the complete trial transcript. Wade was also informed of his right to supplement his attorney's presentation. Wade has

¹*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).

chosen not to supplement his attorney's presentation. The State has responded to the position taken by Wade's counsel and has moved to affirm the judgment of the Superior Court.

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