

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY COOPER,	§
	§
Defendant Below-	§ No. 604, 2003
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN03-02-0136 and -0138
Plaintiff Below-	§ Cr. ID 0301018775
Appellee.	§

Submitted: April 22, 2004  
Decided: April 30, 2004

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

**ORDER**

This 30<sup>th</sup> day of April 2004, 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, Anthony Cooper, pled guilty in September 2003 to first degree assault and possession of a deadly weapon during the commission of a felony. The Superior Court sentenced Cooper to a total period of fourteen years imprisonment, to be suspended after eight years for two years of probation. This is Cooper's direct appeal.

(2) Cooper's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Cooper's counsel asserts that, based upon

a complete and careful examination of the record, there are no arguably appealable issues. By letter, Cooper's attorney informed him of the provisions of Rule 26(c) and provided Cooper with a copy of the motion to withdraw and the accompanying brief. Cooper also was informed of his right to supplement his attorney's presentation. Cooper has not raised any issues for this Court's consideration. The State has responded to the position taken by Cooper'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) 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.\*

(4) This Court has reviewed the record carefully and has concluded that Cooper's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Cooper's counsel has made a

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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).

conscientious effort to examine the record and the law and has properly determined that Cooper 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