

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERMAINE MORRIS,

Defendant Below-
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below-
Appellee.

§

§ No. 371, 2002

§

§ Court Below—Superior Court
§ of the State of Delaware,

§ in and for Kent County

§ Cr.A. Nos. IK02-01-0100,

§ IK01-10-0473, -0475 and -0477

§ Cr. ID Nos. 0109015969 and

§ 0109012669

Submitted: November 14, 2002

Decided: December 26, 2002

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

ORDER

This 26th day of December 2002, 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, Jermaine Morris, pleaded guilty on June 11, 2002 to two counts of possession of a firearm during the commission of a felony, one count of second degree assault, and one count of felony theft. The Superior Court sentenced Morris to a total period of thirteen years incarceration, to be suspended after serving seven years for decreasing levels of supervision. Morris filed a pro se notice of appeal. His counsel was directed to file a formal notice of appeal on his behalf.

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

* *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 Morris' appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Morris' counsel has made a conscientious effort to examine the record and the law and has properly determined that Morris 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/ Myron T. Steele
Justice