IN THE SUPREME COURT OF THE STATE OF DELAWARE

LEVAL E. PETTY,	§	
	§	No. 506, 2011
Defendant Below,	§	
Appellant,	§	
	§	Court Below—Superior Court
v.	§	of the State of Delaware, in and
	§	for New Castle County
STATE OF DELAWARE,	§	Cr. ID No. 1009000052
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: May 22, 2012
Decided: June 1, 2012

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

O R D E R

This 1st day of June 2012, 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, Leval E. Petty, was found guilty by a Superior Court jury of Attempted Robbery in the First Degree. He was sentenced as an habitual offender[1] to 3 years at Level V Key Program, to be followed by 1 year at Level IV Crest, to be suspended upon successful

[1] Del. Code Ann. tit. 11, §4214(a).

completion of Crest for 1 year at Crest Aftercare.[2] This is Petty's direct appeal.

(2) Petty'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 in order to determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.[3]

(3) Petty's counsel asserts that, based upon a careful and complete examination of the record and the law, there are no arguably appealable issues. By letter, Petty's counsel informed Petty 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. Petty also was informed of his right to supplement his attorney's presentation. Petty has

[2] The State has filed an appeal from this sentence in No. 499, 2011.
[3] *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).

not raised any issues for this Court's consideration.[4] The State has responded to the position taken by Petty's counsel as well as the issues raised by Petty and has moved to affirm the Superior Court's judgment.

(4) The Court has reviewed the record carefully and has concluded that Petty's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Petty's counsel has made a conscientious effort to examine the record and the law and has properly determined that Petty 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/ Jack B. Jacobs
Justice

[4] Petty supplied his attorney with a handwritten letter containing a discussion of the State's appeal of his sentence, but no discussion of issues relating to his conviction.