

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS INSLEY,	§
	§
Defendant Below-	§ No. 179, 2004
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ UCN No. 0301011316
Plaintiff Below-	§
Appellee.	§

Submitted: October 20, 2004

Decided: October 27, 2004

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

ORDER

This 27th day of October 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, Thomas Insley, was adjudicated delinquent of second degree rape. The Family Court sentenced Insley to an indefinite commitment at a Level V youth facility. This is Insley's direct appeal.

(2) Insley's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Insley's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably

appealable issues. By letter, Insley's attorney informed him of the provisions of Rule 26(c) and provided Insley with a copy of the motion to withdraw and the accompanying brief. Insley also was informed of his right to supplement his attorney's presentation. Insley has not raised any issues for this Court's consideration. The State has responded to the position taken by Insley's counsel and has moved to affirm the Family 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 of 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 Insley's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Insley's counsel has made a

* *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 Insley 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 Family Court is AFFIRMED.

The motion to withdraw is moot.

BY THE COURT:

/s/ Jack B. Jacobs
Justice