

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FRED L. GUY,	§
	§
Defendant Below-	§ No. 526, 1999
Appellant,	§
	§
v.	§ Court Below— Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr.A. No. S99-04-0237
Plaintiff Below-	§
Appellee.	§

Submitted: March 23, 2000

Decided: March 27, 2000

Before **WALSH, HOLLAND** and **HARTNETT**, Justices

**ORDER**

This 27<sup>th</sup> day of March 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, Fred L. Guy, was found guilty by a Superior Court jury of delivery of cocaine. He was sentenced as an habitual offender<sup>1</sup> to life in prison at Level V.

(2) Guy'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

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<sup>1</sup>11 Del. C. § 4214(b).

consideration of a motion to first, withdraw and an accompanying brief under Rule 26(c) is twofold: 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 second, 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.<sup>2</sup>

(3) Guy's counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. By letter, Guy's counsel informed Guy 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. Guy was also informed of his right to supplement his attorney's presentation. Guy has chosen not to supplement his attorney's presentation. The State has responded to the position taken by Guy's counsel and has moved to affirm the Superior Court's judgment.

(4) This Court has reviewed the record carefully and has concluded that Guy's appeal is wholly without merit and devoid of any

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<sup>2</sup>*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).

arguably appealable issue. We are also satisfied that Guy's counsel has made a conscientious effort to examine the record and has properly determined that Guy 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