

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WOODROW W. DICKERSON,	§	
	§	No. 59, 2011
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 1008012764
Appellee.	§	

Submitted: July 25, 2011  
Decided: October 19, 2011

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

**O R D E R**

This 19<sup>th</sup> day of October 2011, 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, it appears to the Court that:

(1) On December 8, 2010, the appellant, Woodrow W. Dickerson, pled guilty in Cr. ID No. 1008012764 to Unlawful Imprisonment in the Second Degree, Unlawful Sexual Contract in the Third Degree, Menacing, Sexual Harassment, Criminal Mischief, and Resisting Arrest (hereinafter “the Unlawful Imprisonment case”). In the same proceeding, Dickerson pled guilty in Cr. ID No. 1007009853 to Driving Under the Influence (4<sup>th</sup> offense) (hereinafter “the DUI case”).

(2) On December 8, 2010, Dickerson was sentenced in the Unlawful Imprisonment case to a total of five years and thirty days at Level V, including one year imposed for Sexual Harassment, suspended for one year at Level III. Dickerson was sentenced in the DUI case to five years at Level V, suspended after successful completion of the Key Program for one year at Level IV, suspended after successful completion of the Crest Program to eighteen months at Level III aftercare.

(3) On January 11, 2011, Dickerson filed a *pro se* appeal in the DUI case. By Order dated February 7, 2011, the appeal was dismissed as untimely filed.<sup>1</sup>

(4) On January 19, 2011, the Superior Court issued a modified sentence order in the Unlawful Imprisonment case. This appeal followed.

(5) On appeal in the Unlawful Imprisonment case, Dickerson's appellate counsel ("Counsel")<sup>2</sup> has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c) ("Rule 26(c)").<sup>3</sup> Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues.

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<sup>1</sup> *Dickerson v. State*, 2011 WL 400345 (Del. Supr.).

<sup>2</sup> Dickerson was represented by different counsel at trial.

<sup>3</sup> See Del. Supr. Ct. R. 26(c) (governing criminal appeals without merit).

(6) Dickerson, through Counsel, has submitted three issues for the Court consideration. The State has responded to Dickerson’s issues and has moved to affirm the Superior Court’s judgment.

(7) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must be satisfied that Counsel has made a conscientious examination of the record and the law for arguable claims.<sup>4</sup> The Court must also 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>5</sup>

(8) On appeal, Dickerson contends that the fees and costs charged in the DUI case and the Unlawful Imprisonment case are “outrageous.” Also, Dickerson contends that the sentence imposed in the DUI case is “extreme” because it requires that he complete the Key and Crest Programs and Level III aftercare.

(9) Dickerson’s claim as to the fees and costs charged in the Unlawful Imprisonment case is without merit.<sup>6</sup> In the DUI case, the same

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<sup>4</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).

<sup>5</sup> *Id.*

<sup>6</sup> *See generally* Del. Code Ann. tit. 11, § 4101 (2007) (governing payment of fines, costs and restitution upon conviction).

claim as well as Dickerson's extreme sentencing claim are not properly before the Court.<sup>7</sup>

(10) We will, however, remand this matter for correction of sentence in the Unlawful Imprisonment case as it relates to the one-year suspended sentence imposed for Sexual Harassment. Sexual Harassment, an unclassified misdemeanor, is subject to a maximum penalty of thirty days at Level V.<sup>8</sup>

(11) The Court has carefully considered the Superior Court record. With the exception of the sentence imposed for Sexual Harassment, Dickerson's appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Counsel made a conscientious effort to examine the record and the law and properly determined that Dickerson could not raise a meritorious claim on appeal.

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<sup>7</sup> See *Dickerson v. State*, 2011 WL 400345 (Del. Supr.) (dismissing appeal in DUI case as untimely filed). Even if the Court were to consider Dickerson's claim of extreme sentencing in the DUI case, we would undoubtedly conclude that the claim is without merit. The statutory range for a fourth offense DUI is two to five years imprisonment. Del. Code Ann. tit. 21, § 4177 (Supp. 2010). "Appellate review of a sentence generally ends upon determination that the sentence is within the statutory limits prescribed by the legislature." *Mayes v. State*, 604 A.2d 839, 842 (Del. 1992) (quoting *Ward v. State*, 567 A.2d 1296, 1297 (Del. 1989)).

<sup>8</sup> See Del. Code Ann. tit. 11, §§ 763, 4206(c) (codifying sexual harassment as an unclassified misdemeanor punishable up to 30 days incarceration at Level V).

NOW, THEREFORE, IT IS ORDERED that:

A. The State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

B. This matter is REMANDED for correction of the one-year suspended sentence imposed for Sexual Harassment.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice