

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ABDELHAK MOUMEN,	§
	§ No. 605, 2012
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. 1109009211
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 22, 2013
Decided: May 24, 2013

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

ORDER

This 24th day of May 2013, 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, Abdelhak Moumen, was found guilty by a Superior Court jury of one count of Felony Attempted Shoplifting and one count of Misdemeanor Shoplifting. He was sentenced on the attempted shoplifting conviction to 2 years of Level V incarceration, to be suspended for one year of Level III probation. On the conviction of misdemeanor shoplifting, he was sentenced to one year at Level V, to be suspended for one year of Level III probation. This is Moumen’s direct appeal.

(2) Moumen's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Moumen's counsel asserts that, based upon a complete and careful examination of the record and the law, there are no arguably appealable issues. By letter, Moumen's attorney informed him 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. Moumen also was informed of his right to supplement his attorney's presentation. Moumen has not raised any issues for this Court's consideration. The State has responded to the position taken by Moumen's counsel and has moved to affirm the Superior 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 the law for arguable claims; and b) this 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.¹

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

¹ *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).

appealable issues. We also are satisfied that Moumen's counsel has made a conscientious effort to examine the record and the law and has properly determined that Moumen 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/ Randy J. Holland
Justice