

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BARUCH CANNON,	§
	§
Defendant Below-	§ No. 619, 2011
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 1001007728
Plaintiff Below-	§
Appellee.	§

Submitted: April 9, 2012

Decided: April 11, 2012

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

ORDER

This 11th day of April 2012, 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, Baruch Cannon, was found guilty of a violation of probation (VOP) on October 19, 2011. The Superior Court immediately sentenced Cannon to a period of seven years at Level V incarceration to be suspended after serving three years for a period of probation. This is Cannon's direct appeal.

(2) Cannon's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Cannon's counsel asserts that, based upon

a complete and careful examination of the record, there are no arguably appealable issues. By letter, Cannon's attorney informed him of the provisions of Rule 26(c) and provided Cannon with a copy of the motion to withdraw and the accompanying brief. Cannon also was informed of his right to supplement his attorney's presentation. Cannon has not raised any issues for this Court's consideration. The State has responded to the position taken by Cannon'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 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 Cannon's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Cannon'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 Cannon 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/ Carolyn Berger
Justice