

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALBERT SMITH,	§
	§
Defendant Below-	§ No. 263, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0401021784
Plaintiff Below-	§
Appellee.	§

Submitted: May 8, 2006  
Decided: June 21, 2006

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

**ORDER**

This 21st day of June 2006, 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, Albert Smith (“Smith”), pled guilty to Robbery in the First Degree, Assault in the First Degree, two Firearm offenses, and two counts of Conspiracy in the Second Degree. The Superior Court sentenced Smith to a total period of twenty-five years at Level V incarceration to be suspended after twenty-one years for probation. This is Smith’s direct appeal.

(2) Smith's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Smith's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Smith's attorney informed him of the provisions of Rule 26(c) and provided Smith with a copy of the motion to withdraw and the accompanying brief. Smith also was informed of his right to supplement his attorney's presentation. Smith has not raised any issues for this Court's consideration. The State has responded to the position taken by Smith'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 Smith's appeal is wholly without merit and devoid of any arguably

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\* *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 issue. We also are satisfied that Smith's counsel has made a conscientious effort to examine the record and the law and has properly determined that Smith 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