

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARK A. WARREN,	§
	§
Defendant Below-	§ No. 477, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0407015658
Plaintiff Below-	§
Appellee.	§

Submitted: April 17, 2007
Decided: April 24, 2007

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

ORDER

This 24th day of April 2007, 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) A Superior Court jury convicted the defendant-appellant, Mark Warren (Warren), of first degree assault (as a lesser included offense to attempted first degree murder) and two weapon charges. The Superior Court sentenced Warren as an habitual offender to life imprisonment on the assault conviction plus additional terms of imprisonment on the weapon convictions. This is Warren's direct appeal.

(2) Warren's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Warren's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Warren's attorney informed him of the provisions of Rule 26(c) and provided Warren with a copy of the motion to withdraw and the accompanying brief. Warren also was informed of his right to supplement his attorney's presentation. Warren has not raised any issues for this Court's consideration. The State has responded to the position taken by Warren'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.*

* *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).

(4) This Court has reviewed the record carefully and has concluded that Warren's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Warren's counsel has made a conscientious effort to examine the record and the law and has properly determined that Warren 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