

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DONALD L. NEAL,	§
	§
Defendant Below-	§ No. 644, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0605025377
Plaintiff Below-	§
Appellee.	§

Submitted: May 2, 2007

Decided: June 5, 2007

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

ORDER

This 5th day of June 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) The defendant-appellant, Donald Neal (Neal), pled guilty to one count each of second degree robbery and second degree burglary in November 2006. The Superior Court immediately sentenced Neal to a total period of seven years at Level V incarceration to be suspended after serving five years for probation. This is Neal's direct appeal.

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

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