

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEVIN CUFF,	§
	§ No. 658, 2006
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. 0601000601
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 7, 2007
Decided: July 24, 2007

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

ORDER

This 24th day of July 2007, 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, Kevin Cuff, was convicted by a Superior Court jury of Attempted Murder in the First Degree, Possession of a Firearm During the Commission of a Felony, Possession of a Deadly Weapon By a Person Prohibited, and Burglary in the First Degree. He was sentenced to a total of 32 years at Level V, to be suspended after 30 years for decreasing levels of supervision. This is Cuff’s direct appeal.

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

(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.¹

(4) This Court has reviewed the record carefully and has concluded that Cuff's appeal is wholly without merit and devoid of any arguably appealable issues. We also are satisfied that Cuff's counsel has made a

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).

conscientious effort to examine the record and the law and has properly determined that Cuff 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/Henry duPont Ridgely
Justice