

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GEORGE TRAMMELL,	§	
	§	No. 45, 2002
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County, in
	§	Cr. ID No. 0104012547.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: July 16, 2002
Decided: September 19, 2002

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

ORDER

This 19th day of September 2002, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c), his attorneys' motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) In August 2001, the appellant, George Trammell, pleaded guilty to Forgery in the Second Degree and Driving While License Suspended or Revoked. Trammell was sentenced to a total of two years and thirty days at Level V, suspended for one year at Level III, followed by one year and thirty days at Level II. On January 23, 2002, the Superior Court found Trammell guilty of violation of probation and sentenced him to two years and thirty

days at Level V, suspended after completion of the Level III Cornerstone Program, for Level III supervision.¹ This appeal followed.

(2) Trammell's counsel on appeal have filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c). Trammell's counsel assert that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel state that they attempted, without success, to have hand-delivered to Trammell a copy of the motion to withdraw, a copy of the Rule 26(c) brief and appendix in draft form, and a letter explaining that Trammell could reply in writing to counsel within thirty days concerning any points Trammell wished to raise on appeal. According to counsel, however, Trammell refused to accept delivery of the documents, and he did not tender any issues to his counsel for this Court's review.² The State has responded to the position taken by Trammell'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. First, the Court must be satisfied that defense counsel

¹ It appears that as of September 12, 2002, Trammell had not been placed in the Cornerstone Program. By letter order dated September 12, 2002, the Superior Court requested that the Treatment Access Center evaluate Trammell as soon as possible and provide a written recommendation for a treatment program within thirty days.

² On August 12, 2002, Trammell submitted a document that appears to request a voluntary dismissal of this appeal. By letter dated August 16, 2002, the Clerk forwarded Trammell's document to his counsel.

made a conscientious examination of the record and the law for arguable claims. Second, 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.³

(4) This Court has reviewed the record carefully, including the January 23, 2002 violation of probation hearing transcript that was filed with this Court on July 16, 2002, and has concluded that Trammell's appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Trammell's counsel made a conscientious effort to examine the record and the law and properly determined that Trammell 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

³ *Penon 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).