

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|------------------------------|
| THEODORE BARRETT, | § |
| | § |
| Defendant Below- | § No. 342, 2011 |
| Appellant, | § |
| | § |
| v. | § Court Below—Superior Court |
| | § of the State of Delaware, |
| STATE OF DELAWARE, | § in and for Sussex County |
| | § Cr. ID 1012015183 |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: April 16, 2012

Decided: May 1, 2012

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

ORDER

This 1st day of May 2012, 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, Theodore Barrett, of one count of theft by false pretenses of \$50,000 or more, two counts of theft by false pretenses of \$1500 or more, one count of attempted theft by false pretenses of \$50,000 or more, and one count of offering a false instrument for filing. The Superior Court sentenced Barrett to a total period of fifteen years at Level V incarceration, with credit for

thirty days previously served, to be suspended after serving four years for decreasing levels of supervision. This is Barrett's direct appeal.

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

* *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).