

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT BOLDEN,	§
	§
Defendant Below-	§ No. 453, 1999
Appellant,	§
	§
v.	§ Court Below— Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. VN95-07-1263-64
Plaintiff Below-	§
Appellee.	§

Submitted: April 5, 2000
Decided: April 25, 2000

Before **WALSH, HOLLAND** and **HARTNETT**, Justices

ORDER

This 25th day of April 2000, 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, Robert Bolden, filed this appeal from an order of the Superior Court finding him in violation of probation. At the hearing Bolden did not dispute that he had violated his probation by testing positive for drugs. He was sentenced to 2 years incarceration at Level V, to be suspended after successful completion of the Key Program

for 9 months at Level III. In addition, a previous sentence was reimposed to run consecutively for 1 year at Level III.

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

(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) the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal; and (b) the 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 Bolden's appeal is wholly without merit and devoid of any arguably appealable issue. We are also satisfied that Bolden's counsel has made a conscientious effort to examine the record and has properly determined that Bolden 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:

Randy J. Holland
Justice

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).