IN THE SUPREME COURT OF THE STATE OF DELAWARE

KARATEH TEEWIA,	§	
	§	
Defendant Below-Appellant,	§	No. 290, 2011
	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr. ID 1008019060
Plaintiff Below-Appellee.	§	
	§	

Submitted: February 13, 2012
Decided: March 28, 2012

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

O R D E R

This 28th day of March 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) The defendant-appellant, Karateh Teewia (Teewia), pled guilty on March 14, 2011 to one count of first degree assault and one count of possession of a deadly weapon during the commission of a felony. The Superior Court sentenced Teewia to a total period of thirty years at Level V imprisonment, to be suspended after serving twenty-five years in prison for decreasing levels of supervision. This is Teewia's direct appeal.

(2) Teewia's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Teewia's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Teewia's attorney informed him of the provisions of Rule 26(c) and provided Teewia with a copy of the motion to withdraw and the accompanying brief. Teewia also was informed of his right to supplement his attorney's presentation. Teewia submitted no points for the Court's consideration. The State has responded to the position taken by Teewia'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.[1]

(4) To its credit, the State has identified one arguable issue for the Court's consideration based upon its review of the record. Namely, the record reflects that both Teewia's trial counsel and the trial court incorrectly

[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).

informed Teewia during the plea colloquy in August 2010 that he faced a maximum sentence of twenty years for each of the class B felony charges to which he was pleading guilty. In fact, the maximum sentence for class B felonies was twenty-five years.[2] Indeed, the Superior Court sentenced Teewia on the assault charge to the maximum twenty-five term of imprisonment to be suspended after serving twenty years.

(5) As both counsel for Teewia and counsel for the State point out, however, this Court recently has held that errors during the plea colloquy are more appropriately addressed to the trial court, in the first instance, either through a motion for withdrawal of a plea or through a Rule 61 motion.[3] Accordingly, this Court has declined to address such issues for the first time on direct appeal.[4] We reaffirm the soundness of that approach in this case.

(6) The Court has reviewed the record carefully and has concluded that Teewia's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Teewia's counsel has made a conscientious effort to examine the record and the law and has properly determined that Teewia could not raise a meritorious claim in this appeal.

[2] The maximum sentence for class B felonies was increased from twenty to twenty-five years in 2003. 74 Del. Laws c.106, § 9.
[3] *Johnson v. State*, 962 A.2d 233, 234 (Del. 20008) (citing to Del. Super. Ct. Crim. R. 32(d)).
[4] *Id.*; *see also Hallett v. State*, 2010 WL 987028 (Del. Apr. 8, 2010).

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/ Myron T. Steele
Chief Justice