

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAVAN P. CHRISTIAN,	§
	§
Defendant Below-	§ No. 290, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN04-11-1876
Plaintiff Below-	§ Cr. ID 0406018954
Appellee.	§

Submitted: November 16, 2005

Decided: January 24, 2006

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

**ORDER**

This 24<sup>th</sup> day of January 2006, 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, Javan Christian, was convicted by a Superior Court jury of one count of first degree robbery. The Superior Court sentenced Christian to five years at Level V incarceration to be suspended after serving four years for decreasing levels of supervision. At trial, the victim identified Christian as the man who robbed him at gunpoint. Christian testified at trial and admitted having contact with the victim but denied taking any property by force. This is Christian's direct appeal.

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

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\* *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).

(4) This Court has reviewed the record carefully and has concluded that Christian's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Christian's counsel has made a conscientious effort to examine the record and the law and has properly determined that Christian 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