

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |   |                               |
|--------------------|---|-------------------------------|
| NAESEAN McNEIL,    | § |                               |
|                    | § | No. 687, 2015                 |
| Defendant Below,   | § |                               |
| Appellant,         | § | Court Below—Superior Court of |
|                    | § | the State of Delaware         |
| v.                 | § |                               |
|                    | § | Cr. ID Nos. 1501010451B       |
| STATE OF DELAWARE, | § | 1501010451A                   |
|                    | § |                               |
| Plaintiff Below,   | § |                               |
| Appellee.          | § |                               |

Submitted: June 14, 2016

Decided: July 21, 2016

Before **STRINE**, Chief Justice; **VAUGHN**, and **SEITZ**, Justices.

**ORDER**

This 21<sup>st</sup> day of July 2016, having considered the no-merit brief and motion to withdraw filed by the appellant’s counsel under Supreme Court Rule 26(c), the State’s response, and the Superior Court record, it appears to the Court that:

(1) The appellant, Naesean McNeil, was indicted in February 2015 on charges of Possession of a Firearm by a Person Prohibited (“PFABPP”), Possession of Ammunition by a Person Prohibited (“PABPP”), Carrying a Concealed Deadly Weapon (“CCDW”), and Resisting Arrest. On September 1, 2015, the PFBPP and PABPP charges were severed, and a jury trial was held on the charges of CCDW and Resisting Arrest. The jury found McNeil guilty of Resisting Arrest and not guilty of CCDW. McNeil then waived his right to a jury

trial on the remaining charges. After a bench trial, the Superior Court found McNeil guilty of PABPP and not guilty of PFBPP. On November 20, 2015, the Superior Court sentenced McNeil to a total of nine years at Level V incarceration, eight years for PABPP and one year for Resisting Arrest, suspended for eighteen months at Level III probation and one year at Level II probation served concurrently. This is McNeil's direct appeal.

(2) On appeal, McNeil's trial counsel ("Counsel") has filed a no-merit brief and a motion to withdraw under Supreme Court Rule 26(c). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues.

(3) Counsel informed McNeil of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief and appendix in draft form. Counsel also informed McNeil of his right to identify any points he wished this Court to consider on appeal. McNeil has not raised any issues for the Court's consideration. The State has responded to the Rule 26(c) brief and has moved to affirm the Superior Court's judgment.

(4) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), the Court must be satisfied that the appellant's counsel has made

a conscientious examination of the record and the law for arguable claims.<sup>1</sup> Also, the Court must conduct its own review of the record and determine “whether the appeal is indeed so frivolous that it may be decided without an adversary presentation.”<sup>2</sup>

(5) In this case, having conducted “a full examination of all the proceedings” and having found “no nonfrivolous issue for appeal,”<sup>3</sup> the Court concludes that McNeil’s appeal “is wholly without merit.”<sup>4</sup> The Court is satisfied that Counsel made a conscientious effort to examine the record and the law and properly determined that McNeil could not raise a meritorious claim on appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Collins J. Seitz, Jr.  
Justice

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<sup>1</sup> *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).

<sup>2</sup> *Penson v. Ohio*, 488 U.S. at 81.

<sup>3</sup> *Id.* at 80.

<sup>4</sup> Del. Supr. Ct. R. 26(c).