

SUPREME COURT OF THE STATE OF DELAWARE

Dorman v. State

Dorman v. State · No. No. 29, 2017 · Decided June 15, 2017

SUMMARY

The Delaware Supreme Court affirmed Adrienne Dorman’s Superior Court convictions and sentences following her guilty pleas to aggravated menacing, possession of a deadly weapon during the commission of a felony, and endangering the welfare of a child. The Court granted no relief after reviewing counsel’s motion to withdraw and Rule 26(c) brief, concluding that the appeal was wholly without merit and presented no arguably appealable issue.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Per Curiam; Leo E. Strine, Chief Justice; Karen L. Valihura, Justice; James T. Vaughn, Jr., Justice
JURISDICTION	Delaware
DECIDED	June 15, 2017
DOCKET	No. 29, 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions entered after a guilty plea. Appointed appellate counsel filed a motion to withdraw and a Supreme Court Rule 26(c) brief asserting that no arguably appealable issues existed.
STANDARD OF REVIEW	On review of a motion to withdraw under Supreme Court Rule 26(c), the court determines whether counsel conscientiously examined the record and law for arguable claims and independently reviews the record to determine whether the appeal is devoid of any arguably appealable issue.
PRECEDENTIAL VALUE	published
PARTIES	Adrienne Dorman v. State of Delaware

TOPICS

- appellate procedure
- criminal procedure
- standard of review

PRACTICE AREAS

criminal appellate procedure

criminal procedure

appointed appellate counsel

QUESTIONS PRESENTED

1. Whether appellate counsel satisfied the requirements of Delaware Supreme Court Rule 26(c) by conscientiously examining the record and law for arguably appealable issues.
2. Whether the appeal contained any arguably appealable issue requiring adversarial presentation.
3. Whether the Superior Court's judgment should be affirmed.

HOLDINGS

1. When reviewing a Rule 26(c) motion to withdraw and accompanying brief, the Delaware Supreme Court must determine both whether defense counsel conscientiously examined the record and law for arguable claims and whether the court's own review shows that the appeal is wholly devoid of any arguably appealable issue.
2. Dorman's appeal was wholly without merit and presented no arguably appealable issue; therefore, the Superior Court's judgment was affirmed.

KEY QUOTATIONS

“When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must: (i) be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (ii) 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.” ((5))

“This Court has reviewed the record carefully and has concluded that Dorman’s appeal is wholly without merit and devoid of any arguably appealable issue.” ((6))

FACTUAL BACKGROUND

A New Castle County grand jury indicted Adrienne Dorman for multiple offenses, including aggravated menacing, child-welfare offenses, and weapons offenses. She later pleaded guilty to one count each of aggravated menacing, possession of a deadly weapon during the commission of a felony, and endangering the welfare of a child. The Superior Court imposed sentences including a partially suspended twenty-five-year Level V sentence for the weapons conviction and suspended sentences for the other convictions.

PROCEDURAL HISTORY

A New Castle County grand jury indicted Dorman on multiple criminal charges. Dorman pleaded guilty to aggravated menacing, possession of a deadly weapon during the commission of a felony, and endangering the welfare of a child, while the State agreed to dismiss the remaining charges and other pending matters. The Superior Court sentenced her, and she filed a direct appeal. The Delaware Supreme Court independently reviewed the record under Rule 26(c), affirmed the judgment, and declared the motion to withdraw moot.

DISPOSITION

affirmed

CASES CITED

- Penson v. Ohio, 488 U.S. 75, 83 (1988)
- Leacock v. State, 690 A.2d 926, 927-28 (Del. 1996)

OPINION

Dorman v. State

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ADRIENNE DORMAN, §

§ No. 29, 2017 Defendant Below, § Appellant, § § Court Below—Superior Court v. § of the State of Delaware §

STATE OF DELAWARE, § Cr. ID No. 1603014059 (N)

§ Plaintiff Below, § Appellee. § Submitted: June 6, 2017 Decided: June 15, 2017 Before STRINE, Chief Justice; VALIHURA and VAUGHN, Justices.

ORDER

This 15th day of June 2017, upon consideration of the appellant’s Supreme Court Rule 26(c) brief, the State’s response, and the record below, it appears to the Court that:

(1) In May 2016, a New Castle County grand jury indicted the appellant,

Adrienne Dorman, for two counts of Aggravated Menacing, four counts of Endangering the Welfare of a Child, and one count each of Possession of a Firearm During the Commission of a Felony, Possession of a Deadly Weapon During the Commission of a Felony, Carrying a Concealed Deadly Weapon, Offensive Touching, and Criminal Mischief. On January 4, 2017, Dorman pled guilty to one count each of Aggravated Menacing, Possession of a Deadly Weapon During the Commission of a Felony, and Endangering the Welfare of a Child. The State agreed to dismiss the remaining charges, dismiss a pending Court of Common Pleas case against Dorman, and the discharge of another Court of Common Pleas case as unimproved.

(2) The Superior Court sentenced Dorman as follows: (i) for Possession

of a Deadly Weapon During the Commission of a Felony, twenty-five years of Level V incarceration, with credit for three days previously served, suspended after two years; (ii) for Aggravated Menacing, five years of Level V incarceration, suspended for two years of Level III supervision; and (iii) for Endangering the Welfare of a Child, one year of Level V incarceration, suspended for one year of Level III supervision. This is Dorman’s direct appeal.

(3) On appeal, Dorman’s counsel (“Counsel”) filed a 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. Counsel informed

Dorman of the provisions of Rule 26(c) and provided Dorman with a copy of the motion to withdraw and the accompanying brief.

(4) Counsel also informed Dorman of her right to identify any points she wished this Court to consider on appeal. Dorman has not raised any issues for this Court's consideration. The State has responded to the Rule 26(c) brief and has moved to affirm the Superior Court's judgment. 2

(5) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must: (i) be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (ii) 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

(6) This Court has reviewed the record carefully and has concluded that Dorman's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Counsel has made a conscientious effort to examine the record and the law and has properly determined that Dorman could not raise a meritorious claim in this 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/ Karen L. Valihura Justice 1 Penson v. Ohio, 488 U.S. 75, 83 (1988); Leacock v. State, 690 A.2d 926, 927-28 (Del. 1996). 3