

SUPREME COURT OF THE STATE OF DELAWARE

Griffin v. State

No. 12, 2022 (Del. Aug. 30, 2022) · No. No. 12, 2022 · Decided August 30, 2022

SUMMARY

The Delaware Supreme Court affirmed the Superior Court’s resentencing of Tyerin Griffin as a habitual offender. Applying Delaware Supreme Court Rule 26(c), the Court concluded that Griffin’s appeal was wholly without merit and that appointed counsel had conscientiously reviewed the record and law.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Gary F. Traynor; Collins J. Seitz, Chief Justice; James T. Vaughn, Justice; Gary F. Traynor, Justice
JURISDICTION	Delaware
DECIDED	August 30, 2022
DOCKET	No. 12, 2022
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's order granting the State's motion to designate Griffin a habitual offender under the prior version of 11 Del. C. § 4214(a) and resentencing him to an aggregate of 90 years of incarceration; Griffin's appointed counsel filed a Rule 26(c) motion to withdraw and a no-merit brief.
STANDARD OF REVIEW	Under Delaware Supreme Court Rule 26(c), appointed counsel must make a conscientious examination of the record and law for arguably appealable claims, and the Supreme Court independently reviews the record to determine whether the appeal is so devoid of arguably appealable issues that it may be decided without adversary presentation.
PRECEDENTIAL VALUE	Published Delaware Supreme Court opinion/order; precedential status is not expressly stated in the text.
PARTIES	Tyerin Griffin v. State of Delaware

TOPICS

appellate procedure

standard of review

sentencing

post-conviction relief

criminal procedure

PRACTICE AREAS

criminal appellate procedure

criminal sentencing

habitual-offender sentencing

post-conviction sentence correction

QUESTIONS PRESENTED

1. Whether Griffin's appeal presented any arguably appealable issue after appointed counsel's conscientious review of the record and filing of a Rule 26(c) no-merit brief.
2. Whether the Superior Court's resentencing under the version of 11 Del. C. § 4214(a) in effect when Griffin committed the offenses was legally erroneous.

HOLDINGS

1. When counsel files a motion to withdraw and a no-merit brief under Rule 26(c), the Supreme Court must determine both whether counsel conscientiously examined the record and law for arguably appealable claims and whether the appeal is wholly devoid of at least arguably appealable issues.
2. The appeal presented no arguably appealable issue concerning Griffin's resentencing under the prior version of the habitual-offender statute, and the Superior Court's judgment was affirmed.

KEY QUOTATIONS

“First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably be raised on appeal. Second, 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.” (¶ 5)

“The Court has reviewed the record carefully and has concluded that Griffin’s appeal is wholly without merit and devoid of any arguably appealable issues.” (¶ 6)

FACTUAL BACKGROUND

In 2016, Griffin was indicted for murder-related, firearm, reckless-endangering, and prohibited-person firearm offenses. He was convicted of manslaughter, first-degree reckless endangering, two counts of possession of a firearm during the commission of a felony, and possession of a firearm by a person prohibited. After the State conceded that Griffin should have been sentenced under the habitual-offender statute in effect when he committed the offenses, the Superior Court resentenced him to the statutory minimum aggregate term of 90 years.

PROCEDURAL HISTORY

A Superior Court jury convicted Griffin of manslaughter, first-degree reckless endangering, and two counts of possession of a firearm during the commission of a felony, and the trial judge convicted him of possession of a firearm by a person prohibited. The Superior Court initially sentenced him as a habitual offender to an aggregate

of 90 years, and the Delaware Supreme Court affirmed on direct appeal. After Griffin moved under Superior Court Criminal Rule 35 to correct an allegedly illegal sentence, the State conceded that the version of the habitual-offender statute in effect when he committed the offenses applied. The Superior Court resentenced Griffin under that version to the statutory minimum aggregate sentence of 90 years, and this appeal followed.

DISPOSITION

affirmed

CASES CITED

- Griffin v. State, 2020 WL 1159289 (Del. Mar. 9, 2020)
- Penson v. Ohio, 488 U.S. 75, 81-83 (1988)
- McCoy v. Court of Appeals of Wisconsin, 486 U.S. 429, 442 (1988)
- Anders v. California, 386 U.S. 738, 744 (1967)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE TYERIN GRIFFIN, § § No. 12, 2022 Defendant Below, § Appellant, § § Court Below–Superior Court v. § of the State of Delaware § STATE OF DELAWARE, § § Cr. ID Nos. 1604000474A (N) Appellee. § 1604000474B (N) § Submitted: August 8, 2022 Decided: August 30, 2022 Before SEITZ, Chief Justice; VAUGHN and TRAYNOR, Justices.

ORDER After consideration of the appellant’s brief filed under Supreme Court Rule 26(c), his attorney’s motion to withdraw, the State’s response, and the record on appeal, it appears to the Court that: (1) In September 2016, a Superior Court grand jury indicted the appellant, Tyerin Griffin, on one count of first-degree murder, one count of attempted first- degree murder, three counts of possession of a firearm during the commission of a felony (PFDCF), one count of first-degree reckless endangering, and one count of possession of a firearm by a person prohibited (PFBPP).

Griffin proceeded to a trial before a Superior Court jury on the charges (except the PFBPP charge, which was severed from the others at Griffin’s request). Following a five-day trial, the jury found Griffin guilty of manslaughter (as a lesser-included offense of first-degree murder), first-degree reckless endangering, and two counts of PFDCF. Afterward, the trial judge found Griffin guilty of PFBPP.

The State moved to have Griffin declared a habitual offender under the version of 11 Del. C. § 4214(c) then in effect and asked the Superior Court to sentence him accordingly for the manslaughter, PFDCF, and first-degree reckless endangering convictions.

The Superior Court granted the motion and sentenced Griffin to an aggregate of 90 years of Level V incarceration. We affirmed Griffin's convictions and sentence on direct appeal.¹ (2) In August 2020, Griffin moved for the correction of what he claimed was an illegal sentence under Superior Court Criminal Rule 35, arguing that he should have been sentenced under the version of Section 4214 in effect when he engaged in the conduct that led to his 2018 convictions (specifically, April 2016).

The State conceded that Griffin was correct. The State then moved to have Griffin declared a habitual offender under the version of Section 4214(a) in effect in April 2016 (the "previous version of Section 4214(a)") and asked the Superior Court to sentence him accordingly for the manslaughter, PFDCE, and first-degree reckless endangering convictions.

Under the previous version of Section 4214(a), Griffin was subject to a minimum sentence of the statutory maximum penalty and up to a life sentence for each conviction for which the State sought habitual offender 1 Griffin v. State, 2020 WL 1159289 (Del. Mar. 9, 2020). 2 sentencing. That is, Griffin faced a minimum sentence of 25 years for each of his three Class B felony convictions (the manslaughter and PFDCE convictions) and 5 years for his Class E felony conviction (the first-degree reckless endangering conviction).

Based on his criminal history, Griffin also faced a 10-year minimum sentence for his PFBPP conviction.² (3) In December 2021, the Superior Court granted the State's motion and resentenced Griffin to an aggregate of 90 years of incarceration. At Griffin's request, the court ordered Griffin's 5-year sentence for first-degree reckless endangering to run concurrently to his 10-year sentence for PFBPP.

In short, the Superior Court imposed the minimum sentence authorized by statute. This is Griffin's appeal. (4) Griffin's counsel on appeal has filed a brief and a motion to withdraw under Rule 26(c). Counsel asserts that, after a conscientious review of the entire record and the law, he has concluded that this appeal is wholly without merit. Griffin's attorney informed Griffin of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief.

Counsel also informed Griffin of his right to supplement his attorney's presentation. Griffin has not raised any issues for the Court's consideration. The State has responded to the 2 11 Del. C. § 1448(e)(1)(c) (setting a 10-year minimum sentence for anyone previously convicted on two or more separate occasions of any violent felony). 3 position taken by Griffin's counsel and has moved to affirm the Superior Court's judgment.

(5) 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. First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could

arguably be raised on appeal. 3 Second, 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.⁴ (6) The Court has reviewed the record carefully and has concluded that Griffin's appeal is wholly without merit and devoid of any arguably appealable issues.

We also are satisfied that Griffin's counsel has made a conscientious effort to examine the record and the law and has properly determined that Griffin could not raise a meritorious claim in this appeal. NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. Counsel's motion to withdraw is moot. BY THE COURT: /s/ Gary F. Traynor Justice
3 Penson v. Ohio, 488 U.S. 75, 83 (1988); McCoy v. Court of Appeals of Wis., 486 U.S. 429, 442 (1988); Anders v. California, 386 U.S. 738, 744 (1967).

⁴ Penson, 488 U.S. at 81-82. 4