

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 14, 2010
Decided April 16, 2010

Before

WILLIAM J. BAUER, *Circuit Judge*

RICHARD A. POSNER, *Circuit Judge*

TERENCE T. EVANS, *Circuit Judge*

No. 09-3906

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

DAVID LINDSAY,
Defendant-Appellant.

Appeal from the United States District
Court for the Southern District of Indiana,
Indianapolis Division

No. 2:08CR00014-004

William T. Lawrence,
Judge.

O R D E R

David Lindsay pleaded guilty to conspiring to distribute in excess of 500 grams of methamphetamine and possessing with intent to distribute at least 5 grams of methamphetamine, *see* 21 U.S.C. §§ 841(a)(1), 846, and was sentenced to 204 months' imprisonment. In the plea agreement he waived his right to appeal his conviction and sentence. He filed a notice of appeal, but his appointed counsel now seeks to withdraw under *Anders v. California*, 386 U.S. 738 (1967), because he cannot identify any nonfrivolous

argument to pursue. Lindsay did not accept our invitation to respond to his lawyer's submissions, *see* CIR. R. 51(b), so we limit our review to the potential issues identified in counsel's facially adequate brief. *See United States v. Schuh*, 289 F.3d 968, 973-74 (7th Cir. 2002).

Lindsay does not seek to have his guilty plea set aside, so counsel rightly omits a discussion of the plea's voluntariness or the plea colloquy. *See United States v. Knox*, 287 F.3d 667, 671 (7th Cir. 2002).

Counsel considers whether Lindsay could challenge the reasonableness of his agreed-upon sentence, but properly concludes that such a challenge would be foreclosed by the appeal waiver. Because the guilty plea stands, so does the waiver. *See Nunez v. United States*, 546 F.3d 450, 453 (7th Cir. 2008).

Finally, counsel correctly points out that any challenge to the effectiveness of his representation in the district court should be explored in a collateral proceeding so that a more complete record can be developed. *See Massaro v. United States*, 538 U.S. 500, 504-05 (2003); *United States v. Harris*, 394 F.3d 543, 557-58 (7th Cir. 2005).

For the foregoing reasons, we GRANT counsel's motion to withdraw and DISMISS Lindsay's appeal.