

**NONPRECEDENTIAL DISPOSITION**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 July 11, 2023

Decided July 13, 2023

**Before**

DIANE S. SYKES, *Chief Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 22-2287

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

GARY HATCHER, JR., a/k/a SMALLS,  
*Defendant-Appellant.*

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

No. 1:20-CR-00171-003

James R. Sweeney II,  
*Judge.*

**ORDER**

Gary Hatcher, Jr., pleaded guilty to possessing with intent to distribute 50 grams or more of methamphetamine, *see* 21 U.S.C. § 841(a)(1), and was sentenced to 250 months in prison and five years of supervised release. Although his plea agreement contained a broad appeal waiver, Hatcher filed a notice of appeal. His counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Counsel's brief explains the nature of the appeal and addresses issues that an appeal of this kind might be expected to involve. Hatcher did not respond to

counsel's motion. *See* CIR. R. 51(b). Because counsel's analysis appears thorough, we focus on the subjects that he discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Counsel first informs us that Hatcher wishes to challenge his guilty plea, *see United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012), but correctly concludes that any challenge would be frivolous. The transcript of the plea colloquy reflects that the district judge substantially complied with Rule 11 of the Federal Rules of Criminal Procedure. The judge ensured that Hatcher understood the charges, the trial and appeal rights that he was waiving, and the statutory minimum and maximum penalties. *See* FED. R. CRIM. P. 11(b)(1). And the judge confirmed that Hatcher was pleading guilty voluntarily and that his plea was supported by an adequate factual basis. *See id.* 11(b)(2)–(3).

Counsel next considers whether Hatcher could challenge his sentence, but correctly concludes that his appeal waiver precludes such a challenge. An appeal waiver “stands or falls” with the underlying guilty plea. *United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020). In his plea agreement, Hatcher waived his right to appeal his conviction and sentence “on any ground.” His waiver explicitly extended to “all provisions of the guilty plea and sentence imposed, including the length and conditions of supervised release and the amount of any fine.” And counsel rightly observes that no exception to the appeal waiver would apply. Hatcher's 250-month prison sentence and five-year term of supervised release do not exceed the statutory maximums of life imprisonment and supervised release. *See* 21 U.S.C. § 841(b)(1)(A)(viii). And nothing in the record suggests that the judge considered any constitutionally impermissible factors. *See United States v. Campbell*, 813 F.3d 1016, 1018 (7th Cir. 2016).

We therefore GRANT counsel's motion and DISMISS the appeal.