

**NONPRECEDENTIAL DISPOSITION**  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 17, 2023

**Before**

DIANE S. SYKES, *Chief Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 22-2449

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

EDDIE M. KNOX,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Northern District of Indiana,  
Fort Wayne Division.

No. 1:20CR48-006

Holly A. Brady,  
*Judge.*

**ORDER**

Eddie Knox pleaded guilty to conspiring to distribute methamphetamine and fentanyl, *see* 21 U.S.C. § 846, and was sentenced to 25 years in prison and five years of supervised release. Knox “expressly waive[d] [his] right to appeal or to contest” the “conviction” and “sentence” or “the manner in which” they were determined “on any ground other than a claim of ineffective assistance of counsel.” But he appeals nonetheless. His appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738 (1967). Counsel’s brief explains the

nature of the case and raises potential issues that an appeal like this would be expected to involve. Because counsel's brief appears thorough and Knox has not responded to counsel's motion, *see* 7TH CIR. R. 51(b), we limit our review to the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Counsel tells us that Knox wishes to challenge his guilty plea, but we agree with him that such a challenge would be frivolous. Knox swore at his colloquy before a magistrate judge (before whom he consented to plead) that his plea was voluntary; that he understood the possible penalties, which included a maximum term of life in prison; and that he had received no promises about his sentence. He also confirmed that he understood the rights he was giving up, which the judge reviewed, including the right to appeal his conviction or sentence. Next, the government provided the factual basis for his plea. Finally, the judge asked Knox whether he had had enough time to talk to counsel and was satisfied with the representation he received, and Knox said "yes." The district judge accepted the magistrate judge's recommendation to accept Knox's plea.

The magistrate judge substantially complied with Rule 11 of the Federal Rules of Criminal Procedure, rendering a challenge to the plea pointless. *See United States v. Davenport*, 719 F.3d 616, 618 (7th Cir. 2013). The judge explained, and determined that Knox understood, the effect of his plea. Specifically, he determined that Knox understood the charges, the government's right to use his statements against him, and the various rights he was waiving. *See* FED. R. CRIM. P. 11(b)(1)(A)–(G), (N). Likewise, Knox swore that he understood the minimum penalty for his offense (ten years in prison), the maximum (life in prison), the applicable forfeitures and special assessments, and the role of the Sentencing Guidelines in sentencing. *See id.* R. 11(b)(1)(H)–(J), (L)–(M). Finally, the magistrate judge confirmed that Knox's guilty plea was voluntary and based on an adequate factual basis. *See id.* R. 11(b)(2)–(3). No evidence undermines these sworn statements, which are presumed true. *See United States v. Barr*, 960 F.3d 906, 917 (7th Cir. 2020). Thus, the plea is valid.

Next, counsel correctly explains that in light of his appeal waiver, Knox cannot contest on appeal the denial of his motion to withdraw his guilty plea. Before sentencing Knox obtained new counsel and moved to withdraw his guilty plea on the ground that his prior counsel was ineffective because counsel did not explain the potential impact of the plea. He testified that counsel had promised that the judge would not sentence him to more than the ten-year statutory minimum, and counsel did not explain that the Sentencing Guidelines could yield the advisory sentencing range of 30 years to life. The district judge denied Knox's motion for two reasons. First, the judge

determined that Knox's statements under oath at the plea colloquy refuted his current assertions. Second, Knox failed to establish that he would not have pleaded guilty if his counsel had advised him differently.

An appellate challenge to the denial of a motion to withdraw a plea is a challenge to the conviction, *United States v. Alcala*, 678 F.3d 574, 578 (7th Cir. 2012), and Knox's broad appeal waiver would foreclose any appellate challenge to his conviction. An appeal waiver "stands or falls" with the underlying guilty plea, *United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020), and as we have just discussed, Knox's guilty plea is valid. Moreover, a challenge to his criminal judgment based on ineffective assistance of counsel is best saved for collateral review, where an evidentiary foundation can be fully developed. See *Massaro v. United States*, 538 U.S. 500, 503–05 (2003).

Finally, counsel rightly concludes that the appeal waiver also prevents Knox from challenging his 25-year prison term. We agree with counsel that no exception could apply—Knox's sentence does not exceed the statutory maximum of life in prison and the judge did not consider any constitutionally impermissible factors at sentencing. See *Nulf*, 978 F.3d at 507.

Therefore, we GRANT counsel's motion to withdraw and DISMISS the appeal.