NONPRECEDENTIAL DISPOSITION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 October 4, 2023
Decided October 10, 2023

Before

DIANE S. SYKES, *Chief Judge*

DIANE P. WOOD, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 22-2660

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

LATHERIO MEADOWS,
Defendant-Appellant.

Appeal from the United States District Court for the Eastern District of Wisconsin.

No. 21-CR-252-JPS

J. P. Stadtmueller,
Judge.

O R D E R

Latherio Meadows pleaded guilty to seven counts of robbery under the Hobbs Act, 18 U.S.C. § 1951(a), and two counts of brandishing a firearm in furtherance of a violent crime under 18 U.S.C. § 924(c)(1)(A)(ii). The district judge sentenced him to 264 months in prison and three years of supervised release. He filed a notice of appeal, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. See *Anders v. California*, 386 U.S. 738 (1967). We grant the motion and dismiss the appeal.

Meadows committed seven armed robberies of tow-truck drivers in the Milwaukee area. After lineups in which each of the victims identified Meadows as their

attacker, a grand jury indicted him with seven counts of robbery under the Hobbs Act, see 18 U.S.C. § 1951(a), and brandishing a firearm in furtherance of a violent crime, see 18 U.S.C. § 924(c)(1)(A)(ii), as well as two counts of possessing a stolen firearm, see 18 U.S.C. § 922(j), and one count of being a felon in possession of a firearm, see 18 U.S.C. § 922(g)(1). Meadows moved to suppress the lineup evidence because he had not received requested counsel, but he withdrew the motion after entering a plea deal.

In the plea deal, Meadows agreed to plead guilty to all seven robbery counts and two brandishing counts. He admitted to using a firearm in each robbery and conceded that they affected interstate commerce. He also acknowledged that each robbery count carried a statutory maximum of 20 years in prison and 3 years of supervised release, and each firearm count carried a statutory minimum of 7 years in prison (to run consecutively), and up to 5 years of supervised release. Meadows also agreed to pay all fines, assessments, and restitution. The prosecutor agreed to dismiss the remaining counts.

The plea agreement also addressed the Sentencing Guidelines. The parties agreed to recommend a maximum combined offense level of 35. If Meadows continued to accept responsibility, the prosecutor agreed to recommend a maximum offense level of 32. The parties did not agree upon Meadows's criminal history category, but the prosecutor agreed to recommend a sentence at the low end of the guidelines range as calculated by the sentencing judge once the judge had determined that history.

Finally, the plea agreement contained a broad appeal waiver. Meadows waived his right to appeal his conviction and sentence, including any term of imprisonment, supervised release, or probation, as well as supervised release conditions, fines, forfeiture orders, and restitution orders. Meadows additionally waived "any claim that (1) the statutes or Sentencing Guidelines under which the defendant is convicted or sentenced are unconstitutional, and (2) the conduct to which the defendant has admitted does not fall within the scope of the statutes or Sentencing Guidelines."

After this plea agreement came a change-of-plea hearing and sentencing. A magistrate judge conducted the plea colloquy, and the district judge entered Meadows's guilty plea, accepting the magistrate judge's recommendation. At sentencing, the district judge calculated a total offense level of 31 on the robbery counts and a criminal history category of III, yielding a guidelines range of 135 to 168 months in prison. The judge then reiterated that the statutory minimum for each of the firearm counts was

7 years, to run consecutively. Neither party objected. After discussing the sentencing factors under 18 U.S.C. § 3553(a), the judge then imposed concurrent, 96-month prison terms on each of the robbery counts and the minimum, consecutive, 84-month prison terms for the firearm counts, for a total term of 264 months. The judge also imposed a concurrent, 3-year term of supervised release on each count and ordered $10,146 in restitution along with a total of $900 in special assessments.

Counsel's *Anders* brief explains the nature of the case and raises potential issues that we would expect to appear in this appeal. Because the analysis appears thorough, we limit our review to the subjects discussed in counsel's brief and Meadows's response under Circuit Rule 51(b). See *United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Having confirmed that Meadows wishes to withdraw his guilty plea, counsel first considers whether Meadows could raise any nonfrivolous argument that the plea was invalid. See *United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012); *United States v. Knox*, 287 F.3d 667, 671 (7th Cir. 2002). Because Meadows did not challenge his plea in the district court, we would review the decision to accept the plea for plain error. See *United States v. Davenport*, 719 F.3d 616, 618 (7th Cir. 2013). The transcript reflects that, but for two harmless omissions discussed below, the magistrate judge complied with Rule 11 of the Federal Rules of Criminal Procedure. The magistrate judge informed Meadows of the nature of the charges and their potential penalties, his right to plead not guilty and the consequences of pleading guilty, his trial rights, and the role of the Sentencing Guidelines, all of which Meadows confirmed that he understood. See FED R. CRIM. P. 11(b). Meadows confirmed that he was not coerced or promised anything in exchange for his plea, and these sworn statements are presumed true. See *United States v. Smith*, 989 F.3d 575, 582 (7th Cir. 2021). Meadows also admitted that an adequate factual basis existed to support his guilty plea.

The magistrate judge deviated from Rule 11 in two ways, but the deviations do not create arguable issues. First the judge was required to, but did not, advise Meadows that his sworn statements could be used against him in a prosecution for perjury. See FED. R. CRIM. P. 11(b)(1)(A). The judge was also required to, but did not, discuss the terms of Meadows's appeal waiver. See FED. R. CRIM. P. 11(b)(1)(N). For Meadows to succeed on appeal under a plain-error standard based on these omissions, he would need to show that they affected his substantial rights. See *United States v. Blalock*, 321 F.3d 686, 689 (7th Cir. 2003) (failure to advise of perjury risk); *United States v. Brown*, 973 F.3d 667, 718 (7th Cir. 2020) (failure to discuss appeal waiver). That would require Meadows to show a reasonable probability that he would not have entered the plea but

for the omissions. See *United States v. Schaul*, 962 F.3d 917, 924 (7th Cir. 2020). But we agree with counsel that, for two reasons, Meadows could not plausibly show that. First, nothing in the record suggests that Meadows gave perjurious statements at his change-of-plea hearing. See *Blalock*, 321 F.3d at 689. Second, Meadows acknowledged in his plea agreement that he had discussed the appeal waiver with his attorney and understood it, and he confirmed to the magistrate judge under oath that he had discussed the whole agreement with his attorney and understood it. These facts assure us that the judge's omissions did not affect Meadows's substantial rights, see FED. R. CRIM. P. 11(h), much less amount to plain error.

We also agree with counsel that because the agreement and plea are valid, the appeal waiver is enforceable and renders frivolous any argument Meadows could raise on appeal. See *United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020). When a defendant has validly agreed to waive his right to appeal, the only potential issues are whether the sentence exceeded the statutory maximum or the judge considered constitutionally impermissible factors. See *United States v. Campbell*, 813 F.3d 1016, 1018 (7th Cir. 2016). But as counsel notes, neither Meadows's 264-month prison term nor his 3-year term of supervised release exceeded the relevant statutory maximums. *See* 18 U.S.C. §§ 1951(a), 924(c). And nothing in the record suggests that the judge considered any constitutionally impermissible factors. See *Campbell*, 813 F.3d at 1018.

In his response to counsel's motion to withdraw, Meadows proposes three grounds for appeal, but they are all frivolous. First, he believes that the government breached the plea agreement by recommending a sentence above what it had promised to recommend. Were such a breach arguably present, it might invalidate the appeal waiver and present a plausible ground for appeal. See *Puckett v. United States*, 556 U.S. 129, 136 (2009). But the prosecutor complied with her promise to recommend a maximum total offense level of 32 by not objecting when the district judge calculated a total offense level of 31. The prosecutor also agreed to recommend a sentence at the low end of the guidelines range as calculated by the district judge and complied with that promise by recommending a 303-month total sentence. Meadows's suggestion that, before he entered his plea agreement, the prosecutor orally promised to seek a 168-month sentence is twice refuted by Meadows's own statements. First, in his plea agreement, he acknowledged "that no threats, promises, representations, or other inducements [had] been made, nor agreements reached, other than those set forth in [the plea] agreement." Second, he confirmed that fact under oath at his change-of-plea hearing. Meadows proposes two other grounds for appeal—challenges to the validity of his indictment and to his statutes of conviction. But his broad appeal waiver would

block any appellate claim that the indictment and statutes of his convictions are invalid or do not cover the conduct to which he admitted.

We thus GRANT counsel's motion to withdraw, DISMISS the appeal, and DENY Meadows's motion to appoint new counsel.