NONPRECEDENTIAL DISPOSITION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 November 2, 2023
Decided November 3, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-1007

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ANDRE CASWELL,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 1:17-CR-00254(1)

Sharon Johnson Coleman,
Judge.

O R D E R

Andre Caswell engaged in financial aid fraud. He used others' identities to apply for federal student-aid funds from community colleges; he in turn converted these funds for his personal use. He eventually pleaded guilty to two misdemeanor counts of conversion of government property, 18 U.S.C. § 641, and was sentenced to one year of imprisonment. Although his plea agreement contains a broad appellate waiver, Caswell filed a notice of appeal. His appointed 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 case and raises potential issues that an appeal like this would be expected to involve. Because counsel's analysis appears thorough, and Caswell has not responded to the motion, *see* 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 confirms that Caswell wishes to withdraw his guilty plea, *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), so she explores whether there is a nonfrivolous basis to do so under Rule 11 of the Federal Rules of Criminal Procedure. We agree with her that any challenge to the plea would be frivolous. Caswell did not move to withdraw his guilty plea in the district court, so our review would be for plain error. *United States v. Davenport*, 719 F.3d 616, 618 (7th Cir. 2013). And a review of the plea-colloquy transcript reflects that the court substantially complied with Rule 11. Even though the court omitted mention of Caswell's right to representation at trial, *see* FED. R. CRIM. P. 11(b)(1)(D), that oversight was harmless because Caswell was represented at the colloquy by counsel, and nothing in the record suggests he did not know that counsel could continue to represent him if he opted to proceed to trial. *See United States v. Lovett*, 844 F.2d 487, 491–92 (7th Cir. 1988). Counsel also informs us that Caswell believes that his plea is invalid because it was coerced by a former gang affiliate. But she appropriately rejects raising this challenge. Caswell told the district court that he was freely pleading guilty without force or coercion, and these sworn statements are presumed true. *See United States v. Smith*, 989 F.3d 575, 582 (7th Cir. 2021).

Finally, counsel considers whether Caswell could challenge his sentence and correctly concludes that his appellate waiver would foreclose any challenge. In his plea agreement, Caswell waived "all appellate issues," including "any part" of the sentence or the manner in which it was imposed. Because an appellate waiver "stands or falls with the underlying agreement and plea," and his plea is valid, we would be required to enforce his waiver. *United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020). Counsel also appropriately rejects any argument that an exception to the appeal waiver could apply: Caswell's twelve-month sentence does not exceed the statutory maximum, 18 U.S.C. § 641, and the court did not consider any constitutionally impermissible factor at sentencing, *Nulf*, 978 F.3d at 506.

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