

**NONPRECEDENTIAL DISPOSITION**  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 16, 2023  
Decided October 17, 2023

**Before**

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 23-1232

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

OH MIN,  
*Defendant-Appellant.*

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

No. 1:22CR17-001

Holly A. Brady,  
*Chief Judge.*

**ORDER**

Oh Min pleaded guilty to two counts of possession with intent to distribute a controlled substance, *see* 21 U.S.C. § 841(a)(1), and one count of possession of a firearm in furtherance of a drug trafficking crime, *see* 18 U.S.C. § 924(c). The district court sentenced him to 156 months' imprisonment and three years' supervised release. Although his plea agreement contained a broad appeal waiver, Oh Min 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 appeal and addresses issues that an appeal like this might be expected to involve. Because counsel's analysis appears thorough, and Oh Min did not respond to his 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 first considers whether Oh Min could challenge his guilty plea. But counsel does not tell us, as he should, whether he consulted with Oh Min and provided advice about the risks and benefits of challenging the 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). Counsel's oversight is harmless, however, because any challenge to the guilty plea would be frivolous. The transcript of the plea colloquy confirms that the district court substantially complied with Rule 11 of the Federal Rules of Criminal Procedure. The court determined that Oh Min understood the charges against him, the trial and appeal rights he was waiving, the maximum penalties he faced, and the role of the Sentencing Guidelines. *See* FED. R. CRIM. P. 11(b)(1). The court also ensured that Oh Min's plea was voluntary and supported by an adequate factual basis. *See* FED. R. CRIM. P. 11(b)(2)–(3).

Counsel next considers whether Oh Min could challenge his sentence but rightly concludes that his appeal waiver would foreclose any challenge. Because an appeal waiver "stands or falls" with the underlying guilty plea, *United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020), Oh Min's waiver is enforceable. In his plea agreement, he expressly waived his right to appeal or to contest his conviction and sentence "on any ground other than ineffective assistance of counsel." His waiver extends to "all components of [his] sentence or the manner in which [his] conviction or [his] sentence was determined or imposed." And counsel correctly rejects any argument that an exception to the appeal waiver could apply: Oh Min's 156-month prison sentence and three-year term of supervised release do not exceed the statutory maximums, *see* 18 U.S.C. §§ 924(c), 3559(a)(1), 3583(b)(1), and the district court did not consider any constitutionally impermissible factors at sentencing. *See Nulf*, 978 F.3d at 506.

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