

**NONPRECEDENTIAL DISPOSITION**  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 May 2, 2024

Decided May 6, 2024

*Before*

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-2572

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

JAMES RIPPY,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Northern District of  
Indiana, South Bend Division.

No. 3:22CR37-001

Damon R. Leichty,  
*Judge.*

## O R D E R

James Rippy pleaded guilty to production of child pornography and was sentenced to 348 months in prison. Despite a broad appeal waiver in his plea agreement, Rippy filed a notice of appeal. His appointed lawyer asserts that the appeal is frivolous and seeks to withdraw under *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. Because counsel's analysis appears thorough, and Rippy did not respond 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). We grant the motion and dismiss the appeal.

Rippy was charged with production and possession of child pornography, *see* 18 U.S.C. § 2251(a), (b)(2), (e), after local police and special agents from Homeland Security Investigations seized his cell phone and found multiple images and videos of child pornography. The images and videos showed Rippy sexually abusing a minor in his custody over the course of three years, starting when the victim was approximately 14 years old.

Rippy pleaded guilty to the production charge in exchange for the government's agreement to dismiss the possession charge. In his plea agreement, Rippy expressly waived the right to challenge his conviction and sentence "on any ground" except ineffective assistance of counsel. This waiver further extended to "the manner in which [the] conviction or [the] sentence was determined." The district court accepted the plea and four months later sentenced Rippy to 348 months' imprisonment and a mandatory 5 years' supervised release.

Counsel reports that after he advised Rippy of the risks and benefits of challenging his guilty plea, Rippy confirmed that he wishes to challenge only his sentence. Counsel therefore properly refrains from discussing the validity of 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 next considers whether Rippy could challenge his sentence but rightly concludes that the broad appeal waiver forecloses this challenge. An appeal waiver "stands or falls" with the underlying plea, *United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020), and Rippy chose not to challenge the plea. Additionally, as counsel rightly points out, no exception to the appeal waiver could apply because Rippy's sentence does not exceed the 360-month statutory maximum, *see* 18 U.S.C. § 2551(e), 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 GRANT counsel's motion and DISMISS the appeal.