

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

---

No. 10-2782

---

United States of America,

Appellee,

v.

Carlos Humberto Herrera,

Appellant.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

Appeal from the United States  
District Court for the Western  
District of Missouri.

[UNPUBLISHED]

---

Submitted: November 30, 2010

Filed: December 08, 2010

---

Before LOKEN, MURPHY, and BENTON, Circuit Judges.

---

PER CURIAM.

After Carlos Herrera pleaded guilty to possessing with intent to distribute at least 100 kilograms of a mixture or substance containing marijuana, the district court<sup>1</sup> sentenced him to 80 months in prison and 5 years of supervised release. This appeal followed in which counsel seeks leave to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967). Herrera has filed a supplemental brief.

---

<sup>1</sup>The Honorable Gregory Kays, United States District Court for the Western District of Missouri.

The written plea agreement in this case contains an appeal waiver, and we will enforce it: the transcript of Herrera's plea hearing shows that his plea was knowing, voluntary, and entered into with full knowledge of the appeal waiver; the arguments raised on appeal fall within the scope of the waiver; and enforcing the waiver would not cause a miscarriage of justice. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc).

Finally, having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues for appeal outside the scope of the appeal waiver. Accordingly, we dismiss this appeal, and we grant counsel's motion to withdraw, subject to counsel informing Herrera about procedures for seeking rehearing or filing a petition for certiorari.

---