## **United States Court of Appeals**

## FOR THE EIGHTH CIRCUIT

	No. 11-2677
United States of America,	*
Appellee,	* Appeal from the United States
	* District Court for the
v.	* Western District of Missouri.
	*
Michael Sottilare,	* [UNPUBLISHED]
,	*
Appellant.	*
	whmittade January 6, 2012

Submitted: January 6, 2012 Filed: January 20, 2012

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Before LOKEN, BYE, and COLLOTON, Circuit Judges.

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## PER CURIAM.

Michael Sottilare pleaded guilty to receipt of child pornography in violation of 18 U.S.C. § 2252(a)(2). In his written plea agreement, Sottilare waived his right to appeal his conviction and sentence, except for claims of ineffective assistance of counsel, prosecutorial misconduct, and an illegal sentence. The district court¹ sentenced him to 210 months in prison and 10 years of supervised release. On appeal, Sottilare's counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967). Sottilare has filed a pro se supplemental brief.

<sup>&</sup>lt;sup>1</sup>The HONORABLE GREG KAYS, United States District Judge for the Western District of Missouri.

After careful review of the record, we enforce the appeal waiver. The plea agreement and plea hearing transcript show that Sottilare entered the plea and agreed to the appeal waiver knowingly and voluntarily; the arguments on appeal fall within the scope of the waiver; and no miscarriage of justice would result from enforcing the waiver. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc). To the extent Sottilare's supplemental brief asserts a claim of ineffective assistance of counsel, we decline to take up that issue on direct appeal for lack of an adequate record. See United States v. McAdory, 501 F.3d 868, 872-73 (8th Cir. 2007).

Having reviewed the record independently pursuant to <u>Penson v. Ohio</u>, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues outside the scope of the waiver. Accordingly, we grant counsel's motion to withdraw, and we dismiss this appeal.