

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 11-3541

United States of America,

Appellee,

v.

Diana Kay Erickson,

Appellant.

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* Appeal from the United States
* District Court for the
* Western District of Missouri.
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* [UNPUBLISHED]
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Submitted: March 27, 2012

Filed: May 31, 2012

Before MURPHY, ARNOLD, and SHEPHERD, Circuit Judges.

PER CURIAM.

Under the terms of a written plea agreement that contained an appeal waiver, Diana Erickson pleaded guilty to mail fraud in violation of 18 U.S.C. § 1341, and filing a false tax return in violation of 26 U.S.C. § 7206(1). The district court¹ imposed a sentence of 33 months in prison and 3 years of supervised release, and ordered her to pay \$305,249.72 in restitution. Defense counsel has moved to withdraw and submitted a brief under Anders v. California, 386 U.S. 738 (1967).

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.

We conclude that the appeal waiver should be enforced as to all issues in this appeal. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (court should enforce appeal waiver and dismiss appeal where appeal falls within scope of waiver, both plea agreement and waiver were entered into knowingly and voluntarily, and no miscarriage of justice would result); see also United States v. Estrada-Bahena, 201 F.3d 1070, 1071 (8th Cir. 2000) (per curiam) (enforcing appeal waiver in Anders case).

Having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issue not covered by the waiver. Accordingly, we dismiss this appeal and grant counsel's motion to withdraw, subject to counsel informing Ms. Erickson about procedures for seeking rehearing or filing a petition for certiorari.
