

United States Court of Appeals
For the Eighth Circuit

No. 16-3731

United States of America

Plaintiff - Appellee

v.

Aaron Byrd

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: May 17, 2017

Filed: June 2, 2017

[Unpublished]

Before LOKEN, MURPHY, and BENTON, Circuit Judges.

PER CURIAM.

Aaron Byrd directly appeals the within-Sentencing Guidelines sentence imposed by the district court¹ after he pleaded guilty to a drug conspiracy offense,

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

pursuant to a written plea agreement that contained a waiver of the right to appeal his conviction and sentence except on enumerated grounds. Byrd's counsel has moved to withdraw, and in a brief filed under Anders v. California, 386 U.S. 738 (1967), counsel challenges the sentence as substantively unreasonable and contests the application of certain Guidelines enhancements.

We will enforce the appeal waiver in this case, because our review of the record demonstrates that Byrd entered into the plea agreement and the appeal waiver knowingly and voluntarily; the arguments presented fall within the scope of the appeal 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). Having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal falling outside the scope of the appeal waiver.

Accordingly, we grant counsel's motion to withdraw, and we dismiss this appeal.
