

United States Court of Appeals
For the Eighth Circuit

No. 16-3890

United States of America

Plaintiff - Appellee

v.

Vinh Xuan Ngo

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota - St. Paul

Submitted: June 6, 2017

Filed: June 6, 2017

[Unpublished]

Before LOKEN, MURPHY, and BENTON, Circuit Judges.

PER CURIAM.

Pursuant to a written plea agreement that included an appeal waiver, Vinh Xuan Ngo pleaded guilty to charges of aiding and abetting bank fraud and aggravated

identity theft. The district court¹ sentenced him below the calculated Guidelines range to 114 months in prison, and Ngo appeals. His counsel has moved to withdraw, and in a brief submitted under Anders v. California, 386 U.S. 738 (1967), counsel argues that the sentence is unreasonable, and asks that this court consider whether the appeal waiver should be enforced in this case.

Having carefully considered the record, we conclude that the appeal waiver is enforceable and should be enforced. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review). At the plea hearing, the district court carefully and thoroughly questioned Ngo to ensure that he was entering into the plea agreement and the appeal waiver knowingly and voluntarily, see Nguyen v. United States, 114 F.3d 699, 703 (8th Cir. 1997); this appeal falls within the scope of the broadly worded appeal waiver; and no miscarriage of justice would result from enforcing the waiver, see United States v. Andis, 333 F.3d 886, 890-92 (8th Cir. 2003) (en banc). Further, we have reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), and find no non-frivolous issues for appeal outside the scope of the waiver.

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

¹The Honorable Patrick J. Schiltz, United States District Judge for the District of Minnesota.