

United States Court of Appeals
For the Eighth Circuit

No. 16-3961

United States of America

Plaintiff - Appellee

v.

Angel Alberto Flores, also known as Jose Francisco Ochoa-Armenta, also known
as Angel A. Flores, also known as Vincent Sanchez

Defendant - Appellant

Appeal from United States District Court
for the District of North Dakota - Bismarck

Submitted: August 3, 2017
Filed: August 9, 2017
[Unpublished]

Before GRUENDER, BOWMAN, and SHEPHERD, Circuit Judges.

PER CURIAM.

Angel Flores directly appeals from the sentence the district court¹ imposed after he pleaded guilty to an immigration offense under a plea agreement that contained an appeal waiver. His counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), suggesting that Flores may have received ineffective assistance of counsel, and raising several sentencing issues.

We conclude that the appeal waiver is enforceable. In particular, we note that Flores's own statements at the change-of-plea hearing indicated that he knowingly and voluntarily entered into the plea agreement and appeal waiver. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review of validity and applicability of appeal waiver); United States v. Andis, 333 F.3d 886, 890-92 (8th Cir. 2003) (en banc) (discussing enforcement of appeal waivers); Nguyen v. United States, 114 F.3d 699, 703 (8th Cir. 1997) (defendant's representations during plea-taking carry strong presumption of verity).

As to the ineffective-assistance claim, we decline to consider it on direct appeal. See United States v. Ramirez-Hernandez, 449 F.3d 824, 826-27 (8th Cir. 2006) (noting that ineffective-assistance claims are usually best litigated in collateral proceedings where the record can be properly developed).

Furthermore, we have independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal outside the scope of the appeal waiver. Accordingly, we grant counsel's motion, and we dismiss this appeal

¹The Honorable Ralph R. Erickson, United States District Judge for the District of North Dakota.