

United States Court of Appeals  
For the Eighth Circuit

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No. 17-1647

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United States of America

*Plaintiff - Appellee*

v.

Joshua R. Fuertes, also known as Rico

*Defendant - Appellant*

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

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Submitted: December 21, 2017

Filed: December 27, 2017

[Unpublished]

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Before WOLLMAN, LOKEN, and COLLOTON, Circuit Judges.

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PER CURIAM.

Joshua Fuertes directly appeals the within-Guidelines-range sentence the district court<sup>1</sup> imposed after he pled guilty to drug and firearm offenses, pursuant to

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<sup>1</sup>The Honorable Beth Phillips, United States District Judge for the Western District of Missouri.

a plea agreement containing an appeal waiver. Counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging Fuertes’s sentence, but conceding that the appeal waiver is applicable and enforceable.

Having considered Fuertes’s arguments, we conclude that the appeal waiver is enforceable. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review of validity and applicability of appeal waiver). The record establishes that Fuertes entered into the plea agreement and 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). In addition, having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no non-frivolous issues for appeal outside the scope of the waiver. Accordingly, we grant counsel’s motion to withdraw. The appeal is dismissed.

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