

United States Court of Appeals
For the Eighth Circuit

No. 17-1658

United States of America

Plaintiff - Appellee

v.

Kenneth R. McGee

Defendant - Appellant

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

Submitted: October 2, 2017

Filed: October 5, 2017

[Unpublished]

Before GRUENDER, BENTON, and KELLY, Circuit Judges.

PER CURIAM.

Kenneth McGee directly appeals his sentence after pleading guilty to a firearm offense pursuant to a plea agreement that contained an appeal waiver. His counsel has moved for leave to withdraw and has filed a brief under *Anders v. California*, 386

U.S. 738 (1967), arguing that the district court¹ erred in applying an enhancement under the Guidelines.

Upon careful review, we conclude that the waiver is valid, applicable, and enforceable. *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, 889-92 (8th Cir. 2003) (en banc) (appeal waiver will be enforced if the appeal falls within the scope of a waiver, if defendant knowingly and voluntarily entered into the plea agreement and waiver, and if enforcing the waiver would not result in a miscarriage of justice). Having independently reviewed the record pursuant to *Penson v. Ohio*, 488 U.S. 75 (1988), we find no nonfrivolous issues other than the scope of the appeal waiver. Accordingly, we dismiss this appeal and grant counsel leave to withdraw.

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