

United States Court of Appeals
For the Eighth Circuit

No. 18-3635

United States of America

Plaintiff - Appellee

v.

David Gabriel Morago

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Davenport

Submitted: August 30, 2019

Filed: September 17, 2019

[Unpublished]

Before COLLTON, ERICKSON, and GRASZ, Circuit Judges.

PER CURIAM.

Federal inmate David Morago pleaded guilty pursuant to a plea agreement, in which he waived many rights, including the right to file a motion under 18 U.S.C.

§ 3582(c)(2). He now appeals after the district court¹ denied his renewed motion for a sentence reduction under § 3582(c)(2). His counsel has moved to withdraw, and has submitted a brief acknowledging the plea agreement contained a waiver of the right to seek § 3582(c)(2) relief, but challenging the voluntariness of that waiver; and arguing Morago is eligible for a sentence reduction.

Upon careful review, we conclude the record shows Morago knowingly and voluntarily entered into the plea agreement, including the § 3582(c)(2) waiver. *Cf. United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010) (applying de novo review to 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 appeal falls within scope of waiver, defendant knowingly and voluntarily entered into waiver and plea agreement, and enforcing waiver would not result in miscarriage of justice). As the § 3582(c)(2) waiver is valid, we conclude the district court did not err in denying Morago's renewed motion. *See Freeman v. United States*, 564 U.S. 522, 541 (2011) (Sotomayor, J., concurring in the judgment) (noting if the government wants to ensure a defendant's term of imprisonment will not be reduced, it can negotiate with such defendant to waive the right to seek a sentence reduction under § 3582(c)(2)).

Accordingly, we grant counsel leave to withdraw, and we affirm.

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.