

United States Court of Appeals
For the Eighth Circuit

No. 22-1844

United States of America

Plaintiff - Appellee

v.

Kelvin R. Williams, also known as Chop

Defendant - Appellant

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

Submitted: September 15, 2022

Filed: September 20, 2022

[Unpublished]

Before LOKEN, GRUENDER, and BENTON, Circuit Judges.

PER CURIAM.

Kelvin R. Williams appeals after he pled guilty to a drug offense pursuant to a plea agreement containing an appeal waiver. Having jurisdiction under 28 U.S.C. § 1291, this court dismisses the appeal based on the appeal waiver.

Williams challenges the below-Guidelines sentence the district court¹ imposed. Counsel has moved for leave to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967). Counsel acknowledges the appeal waiver but argues that the Guidelines base offense level and a three-level aggravating-role adjustment under U.S.S.G. § 3B1.1(b) were based on unreliable hearsay. The appeal waiver is enforceable, as counsel's arguments fall within the scope of the appeal waiver, the record shows that Williams entered into the plea agreement and the appeal waiver knowingly and voluntarily, and no miscarriage of justice would result from enforcing the waiver. *See United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review); *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 plea agreement and waiver, and enforcing waiver would not result in miscarriage of justice); *see also* 21 U.S.C. § 841(b)(1)(B) (maximum prison sentence is 40 years).

This court has reviewed the record independently under *Penson v. Ohio*, 488 U.S. 75 (1988), and has found no non-frivolous issues outside the scope of the appeal waiver.

The appeal is dismissed, and counsel's motion to withdraw is granted.

¹The Honorable David Gregory Kays, United States District Judge for the Western District of Missouri.