

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted October 30, 2008

Decided November 18, 2008

Before

WILLIAM J. BAUER, *Circuit Judge*

JOHN L. COFFEY, *Circuit Judge*

MICHAEL S. KANNE, *Circuit Judge*

No. 08-2129

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

AHMAD FLEMMING,
Defendant-Appellant.

Appeal from the United States District
Court for the Southern District of Indiana,
Evansville Division.

No. 3:06CR00038-015

Richard L. Young,
Judge.

ORDER

In 2008 Ahmad Fleming pleaded guilty to conspiring to possess with intent to distribute crack cocaine. *See* 21 U.S.C. §§ 846, 841(a)(1). The parties agreed on page two of Fleming's plea agreement to a specific sentence of 240 months' imprisonment—the mandatory minimum given the amount of crack and Fleming's prior drug-felony conviction. *See* 21 U.S.C. § 841(b)(1)(A); FED. R. CRIM. P. 11(c)(1)(C). The district court accepted the plea agreement and sentenced Fleming, as agreed, to 240 months' imprisonment. *See* FED. R. CRIM. P. 11(c)(1)(C).

Fleming has filed a notice of appeal, hoping to challenge his prison sentence (but not his guilty plea). We lack jurisdiction, however. Under 18 U.S.C. § 3742, a defendant

who agrees to a specific sentence cannot appeal the sentence imposed except in three narrow circumstances: if his guilty plea was involuntary, if the sentence he received is greater than the sentence he bargained for, or if his sentence was imposed in violation of law. *See id.* § 3742(a)(1), (c)(1); *United States v. Gibson*, 490 F.3d 604, 607 (7th Cir. 2007); *United States v. Cieslowski*, 410 F.3d 353, 363-64 (7th Cir. 2005); *United States v. Barnes*, 83 F.3d 934, 941 (7th Cir. 1996). Flemming does not want his plea set aside, so the first possibility is out. And the second is not tenable because Flemming's prison sentence tracks the agreement. As for the third possibility, Flemming's sentence is the lowest permitted by law. *See* 21 U.S.C. § 841(b)(1)(A). Because we do not have jurisdiction, we need not reach counsel's motion to withdraw under *Anders v. California*, 386 U.S. 738 (1967).

DISMISSED.