

NONPRECEDENTIAL DISPOSITION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 February 3, 2023

Decided February 3, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-1275

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TRAIZE WASH,
Defendant-Appellant.

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

No. 1:20CR00303-001

James Patrick Hanlon,
Judge.

ORDER

Traize Wash pleaded guilty to possessing with intent to distribute methamphetamine, 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and carrying a firearm during a drug trafficking offense, 18 U.S.C. § 924(c). The district court sentenced him to a 120-month prison term on Count 1 and a consecutive 60-month term on Count 2, as well as 5 years of supervised release. Although his plea agreement contains a broad appellate

waiver, Wash filed a notice of appeal. His appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Counsel's brief explains the nature of the case and raises potential issues that an appeal like this would be expected to involve. Because her analysis appears thorough, and Wash has not responded to counsel's motion, *see* CIR. R. 51(b), we limit our review to the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Police officers found Wash unconscious in a running vehicle that was parked in the center of a residential road in Indianapolis, Indiana. One of the officers observed in plain view a plastic bag appearing to contain methamphetamine. The officers searched the vehicle and found multiple packages containing methamphetamine pills, two loaded firearms, over \$12,000 in U.S. currency, and a digital scale containing methamphetamine residue.

Wash was charged in a federal indictment with three counts: possessing with intent to distribute 500 grams or more of a mixture containing methamphetamine, 21 U.S.C. §§ 841(a)(1), (b)(1)(A); carrying a firearm during a drug trafficking offense, 18 U.S.C. § 924(c); and possessing a firearm as a felon, 18 U.S.C. § 922(g)(1). He pleaded guilty to the first two counts under a written plea agreement in which he "expressly waive[d] [his] right to appeal the conviction and sentence imposed in [his] case on any ground." The government in turn agreed to dismiss the third count. The parties agreed that an appropriate sentence would be 180 months in prison—the statutory minimum of 120 months on Count 1, 21 U.S.C. § 841(b)(1)(A), followed by the statutory minimum of 60 months on Count 2, 18 U.S.C. § 924(c)(1)(A)(i). The parties also agreed that the court would determine the length of any supervised-release term.

At a joint change-of-plea and sentencing hearing, the district court accepted Wash's plea and sentenced him to consecutive prison terms of 120 months on Count 1 and 60 months on Count 2, and 5 years of supervised release.

Counsel first informs us that Wash wishes to challenge his guilty plea, *see United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012), but she rightly concludes that this challenge would be frivolous. Because Wash did not move to withdraw his plea in the district court, we would review only for plain error, *United States v. Davenport*, 719 F.3d 616, 618 (7th Cir. 2013), and the record reflects no such error here. The court conducted a plea colloquy that complied with Rule 11, and Wash's sworn statements at the colloquy are presumed true. *See United States v. Graf*, 827 F.3d 581, 584 (7th Cir. 2016).

The court determined that Wash was voluntarily changing his plea, and that the plea did not result from threats, promises, or force. The court also confirmed that Wash understood the charges, the rights he was waiving (including the right to appeal), the maximum penalties he faced, and the role of the Sentencing Guidelines. *See* FED. R. CRIM. P. 11(b)(1). And the court ensured that the factual basis for the plea was adequate. *See* FED. R. CRIM. P. 11(b)(2)–(3).

Counsel next considers whether Wash could appeal his sentence and correctly concludes that this challenge would be precluded by his broad appeal waiver. An appeal waiver “stands or falls with the underlying agreement and plea,” *United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020), and Wash lacks any sound basis to challenge his plea. Counsel also appropriately rejects any argument that an exception to the appeal waiver could apply: Wash’s 180-month sentence is less than the applicable statutory maximum sentence of life (for Count 1), 21 U.S.C. § 841(b)(1)(A), and the court did not consider any constitutionally impermissible factor at sentencing. *See Nulf*, 978 F.3d at 506.

We GRANT counsel’s motion to withdraw and DISMISS the appeal.