

NONPRECEDENTIAL DISPOSITION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 May 19, 2023

Decided May 26, 2023

Before

DIANE P. WOOD, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-2100

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

CHRISTOPHER SCHALLER,
Defendant-Appellant.

Appeal from the United States District Court
for the Central District of Illinois.

No. 19-30050-001

Sue E. Myerscough,
Judge.

ORDER

Christopher Schaller pleaded guilty to six counts of wire fraud, see 18 U.S.C. § 1343, and was sentenced to 30 months' imprisonment and three years of supervised release. Schaller appeals, despite a broad appeal waiver in his plea agreement. His counsel asserts that the appeal is frivolous and moves to withdraw. See *Anders v. California*, 386 U.S. 738, 744 (1967). Schaller did not respond to counsel's motion. See CIR. R. 51(b). Because counsel's brief explains the nature of the appeal, addresses issues that an appeal of this kind might be expected to involve, and appears thorough, we focus on the subjects she discusses. See *United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

While he was a manager and loan officer at a mortgage company, Schaller routinely committed fraud related to customers' mortgage applications. He prepared (or caused to be prepared) false and fraudulently altered documents, which he then included in customers' mortgage applications. He was indicted on six counts of wire fraud and pleaded guilty to all six counts.

Schaller's plea agreement contained a broad appeal waiver. Schaller waived his right to appeal his conviction and sentence, including "any term of imprisonment, term of supervised release, term of probation, supervised release condition, fine, forfeiture order, and/or restitution order," and "the manner and/or method the district court use[d] to determine" the sentence.

Counsel first considers whether Schaller could challenge his guilty plea, but she does not tell us, as she should, whether Schaller wants to withdraw his plea and whether she consulted and advised him of the risks of withdrawing his plea. See *United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012) (counsel may refrain from discussing guilty plea only if, after consultation, defendant does not want to withdraw it); *United States v. Knox*, 287 F.3d 667, 671 (7th Cir. 2002). But we need not reject counsel's brief, because the plea transcript shows that the district court substantially complied with the requirements of Federal Rule of Criminal Procedure 11.

After informing Schaller that he was under oath and could face perjury charges if he lied, the court ensured that Schaller understood the charges (including maximum possible penalties), the trial rights he was giving up, and how his sentence would be determined. See FED. R. CRIM. P. 11(b)(1)(A–K, M). We note that the court did not discuss its obligation to impose a special assessment, *id.* 11(b)(1)(L), but that information appeared in Schaller's plea agreement, so the omission does not undermine his plea. See *United States v. Driver*, 242 F.3d 767, 771 (7th Cir. 2001). And the court ensured that Schaller was pleading guilty of his own volition, that there was a factual basis for the plea, and that he understood that he was forfeiting his right to appeal his sentence and conviction. See FED. R. CRIM. P. 11(b)(1)(N), (b)(2), (b)(3).

We agree with counsel that because the agreement and plea are valid, the appeal waiver is enforceable and forecloses any appellate argument. See *United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020). When a valid waiver is present, the only potential issue is whether a narrow and rare exception to the waiver applies, see *United States v. Campbell*, 813 F.3d 1016, 1018 (7th Cir. 2016), and it would be frivolous for Schaller to argue that any exception applies here. As counsel notes, Schaller's 30-month sentence did not exceed the 20-year statutory maximum, see 18 U.S.C. § 1343, nor did his three-

year term of supervised release, see 18 U.S.C. §§ 3559(a)(3); 3583(a)(2). And nothing in the record suggests that the judge considered any constitutionally impermissible factors. See *Campbell*, 813 F.3d at 1018.

We therefore GRANT counsel's motion and DISMISS the appeal.