

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 05-2954

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United States of America,

Appellee,

v.

James Douglas Cain, II,

Appellant.

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Appeal from the United States  
District Court for the  
District of Minnesota.

[UNPUBLISHED]

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Submitted: January 5, 2007  
Filed: January 11, 2007

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Before MURPHY, BYE, and MELLOY, Circuit Judges.

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PER CURIAM.

James Douglas Cain, II, appeals the sentence the district court<sup>1</sup> imposed after he pleaded guilty to five counts of possessing child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B), and five counts of receiving and distributing child pornography, in violation of 18 U.S.C. § 2252A(a)(2). His counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967).

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<sup>1</sup>The Honorable Richard H. Kyle, United States District Judge for the District of Minnesota.

Cain's plea agreement contains a valid appeal waiver. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (discussing enforceability of appeal waiver); see also United States v. Estrada-Bahena, 201 F.3d 1070, 1071 (8th Cir. 2000) (per curiam) (enforcing appeal waiver in Anders case). Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75, 80 (1988), for any nonfrivolous issues not covered by the appeal waiver, we find none. Accordingly, we enforce the waiver, and dismiss the appeal. We also grant counsel leave to withdraw on condition that he show that he has informed Cain of the procedures for petitioning the Supreme Court for certiorari, in compliance with Part V of our plan to implement the Criminal Justice Act.

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