

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 11-2677

United States of America,

Appellee,

v.

Michael Sottolare,

Appellant.

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Appeal from the United States
District Court for the
Western District of Missouri.

[UNPUBLISHED]

Submitted: January 6, 2012
Filed: January 20, 2012

Before LOKEN, BYE, and COLLOTON, Circuit Judges.

PER CURIAM.

Michael Sottolare pleaded guilty to receipt of child pornography in violation of 18 U.S.C. § 2252(a)(2). In his written plea agreement, Sottolare waived his right to appeal his conviction and sentence, except for claims of ineffective assistance of counsel, prosecutorial misconduct, and an illegal sentence. The district court¹ sentenced him to 210 months in prison and 10 years of supervised release. On appeal, Sottolare's counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967). Sottolare has filed a pro se supplemental brief.

¹The HONORABLE GREG KAYS, United States District Judge for the Western District of Missouri.

After careful review of the record, we enforce the appeal waiver. The plea agreement and plea hearing transcript show that Sottolare entered the plea and agreed to the appeal waiver knowingly and voluntarily; the arguments on appeal fall within the scope of the waiver; and no miscarriage of justice would result from enforcing the waiver. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc). To the extent Sottolare's supplemental brief asserts a claim of ineffective assistance of counsel, we decline to take up that issue on direct appeal for lack of an adequate record. See United States v. McAdory, 501 F.3d 868, 872-73 (8th Cir. 2007).

Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues outside the scope of the waiver. Accordingly, we grant counsel's motion to withdraw, and we dismiss this appeal.
