

United States Court of Appeals
For the Eighth Circuit

No. 12-2279

United States of America

Plaintiff - Appellee

v.

Jeremy Edward Nebeker

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Springfield

Submitted: November 27, 2012

Filed: December 3, 2012

[Unpublished]

Before MURPHY, ARNOLD, and SMITH, Circuit Judges.

PER CURIAM.

Jeremy Edward Nebeker directly appeals after he pled guilty to attempting to receive child pornography in violation of 18 U.S.C. § 2252(a)(2) and (b)(1), and the

district court¹ sentenced him to 135 months in prison and a lifetime of supervised release. Nebeker's counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence is unreasonable.

Nebeker pled guilty pursuant to a written plea agreement. The plea agreement contained an appeal waiver that included within its scope challenges to the sentence based on unreasonableness. We conclude that the appeal waiver is enforceable. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (appeal waiver is generally enforceable if appeal falls within scope of waiver, both waiver and plea agreement were entered into knowingly and voluntarily, and enforcement of waiver would not result in miscarriage of justice). In addition, we have reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988), and we have found no nonfrivolous issue for appeal.

Accordingly, we dismiss the appeal based on the appeal waiver, and we grant counsel's motion to withdraw, subject to counsel informing appellant about procedures for seeking rehearing or filing a petition for certiorari.

¹The Honorable Richard E. Dorr, United States District Judge for the Western District of Missouri.