

United States Court of Appeals
For the Eighth Circuit

No. 12-4010

United States of America

Plaintiff - Appellee

v.

Deshawn Michael Mapp

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Davenport

Submitted: July 5, 2013

Filed: July 11, 2013

[Unpublished]

Before WOLLMAN, BYE, and BENTON, Circuit Judges.

PER CURIAM.

Deshawn Mapp appeals the 105-month prison sentence that the district court¹ imposed upon remand for resentencing in light of Dorsey v. United States, 132 S. Ct.

¹The Honorable John A. Jarvey, United States District Judge for the Southern District of Iowa.

2321 (2012). Counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that Mapp was not properly classified as a career offender. We do not consider the issue, however, because Mapp did not challenge his career-offender status at his first sentencing hearing or in his first direct appeal. Further, he agreed at the resentencing hearing with the calculation of his sentencing range under the career offender Guideline. See United States v. Olano, 507 U.S. 725, 733 (1993) (waiver is intentional relinquishment or abandonment of known right and is not reviewable on appeal); United States v. Waltermann, 408 F.3d 1084, 1085-86 (8th Cir. 2005) (defendant cannot raise in second appeal challenge to sentencing enhancements that he failed to raise in first appeal, simply because he is resentenced); United States v. Harrison, 393 F.3d 805, 806 (8th Cir. 2005) (finding waiver of objections when counsel confirmed at sentencing that there were no objections).

Having independently reviewed the record under Penon v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal. The judgment is affirmed. We also grant counsel leave to withdraw.
