

United States Court of Appeals
For the Eighth Circuit

No. 15-1223

United States of America

Plaintiff - Appellee

v.

Joshua T. Payne

Defendant - Appellant

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

Submitted: September 2, 2015

Filed: September 8, 2015

[Unpublished]

Before WOLLMAN, SMITH, and BENTON, Circuit Judges.

PER CURIAM.

Joshua Payne directly appeals after he pleaded guilty to being a felon in possession of a firearm, and the district court¹ sentenced him within the Guidelines

¹The Honorable Greg Kays, Chief Judge, United States District Court for the Western District of Missouri.

range contemplated in his binding plea agreement. His counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967). Payne has filed a pro se supplemental brief in which he challenges the basis for his calculated Guidelines offense level.

After careful de novo review, see United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010), we will enforce the appeal waiver that is included in Payne's written plea agreement, because the claims raised in this appeal fall within the scope of the waiver, Payne's testimony at the plea hearing shows that he entered into the plea agreement and the appeal waiver knowingly and voluntarily, and dismissing the appeal based on the waiver will not result in a miscarriage of justice, see United States v. Andis, 333 F.3d 886, 889-90 (8th Cir. 2003) (en banc). Further, having independently reviewed the record pursuant to Penon v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues that fall outside the scope of the appeal waiver.

Accordingly, we grant counsel's motion to withdraw, and we deny the remaining pending motions as moot. This appeal is dismissed.
