

United States Court of Appeals
For the Eighth Circuit

No. 17-1497

United States of America

Plaintiff - Appellee

v.

James Lovett Ivy

Defendant - Appellant

Appeal from United States District Court
for the District of South Dakota - Sioux Falls

Submitted: December 19, 2017

Filed: January 5, 2018

[Unpublished]

Before GRUENDER, MURPHY, and SHEPHERD Circuit Judges.

PER CURIAM.

James Ivy directly appeals the sentence the district court¹ imposed after he pled guilty to a firearm charge, pursuant to a plea agreement that contained an appeal

¹The Honorable Karen E. Schreier, United States District Judge for the District of South Dakota.

waiver. His counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), acknowledging the appeal waiver, and relaying Ivy's argument that Ivy is entitled to be resentenced because he received ineffective assistance of counsel.

We conclude that the appeal waiver is valid and enforceable. In particular, we note that Ivy's own statements at the change-of-plea hearing indicated that he knowingly and voluntarily entered into the plea agreement and appeal waiver. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review of validity and applicability of appeal waiver); United States v. Andis, 333 F.3d 886, 890-92 (8th Cir. 2003) (en banc) (discussing enforcement of appeal waivers); Nguyen v. United States, 114 F.3d 699, 703 (8th Cir. 1997) (defendant's representations during plea-taking carry strong presumption of verity).

As to the ineffective-assistance claim, we decline to consider it on direct appeal. See United States v. Ramirez-Hernandez, 449 F.3d 824, 826-27 (8th Cir. 2006) (noting that ineffective-assistance claims are usually best litigated in collateral proceedings where the record can be properly developed).

Furthermore, we have independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal outside the scope of the appeal waiver. Accordingly, we dismiss this appeal.
