

United States Court of Appeals
For the Eighth Circuit

No. 17-1990

United States of America

Plaintiff - Appellee

v.

Mitchell Johnson

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Arkansas - Little Rock

Submitted: October 26, 2017

Filed: October 31, 2017

[Unpublished]

Before WOLLMAN, GRUENDER, and BENTON, Circuit Judges.

PER CURIAM.

Pursuant to a written plea agreement that included a limited waiver of his right to appeal, Mitchell Johnson pleaded guilty to a charge of producing child pornography. The district court¹ sentenced him to 262 months in prison, within the

¹The Honorable D.P. Marshall, Jr., United States District Judge for the Eastern District of Arkansas.

advisory Guidelines range, and he appeals. Johnson's counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), challenging the sentence as substantively unreasonable; Johnson has filed a pro se supplemental brief, challenging a ruling on one of the sentence enhancements; and the government has filed a motion to dismiss based on the appeal waiver.

Following careful review, we grant the government's motion and enforce the appeal waiver because the arguments for reversal fall within the scope of the waiver, the record shows the requisite knowledge and voluntariness, and enforcing the waiver would not result in a miscarriage of justice. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir.2003) (en banc). In addition, having reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues that are not covered by the appeal waiver. Accordingly, the appeal is dismissed, and defense counsel's motion to withdraw is granted.
