

United States Court of Appeals
For the Eighth Circuit

No. 17-3026

United States of America

Plaintiff - Appellee

v.

Jason L. Clark

Defendant - Appellant

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

Submitted: April 17, 2018

Filed: April 30, 2018

[Unpublished]

Before COLLOTON, BOWMAN, and SHEPHERD, Circuit Judges.

PER CURIAM.

Jason Clark directly appeals the below-Guidelines sentence the district court¹ imposed after he pled guilty--pursuant to a plea agreement containing an appeal

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.

waiver--to drug and firearm offenses. His counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging the substantive reasonableness of Clark's sentence, and arguing that the district court should have departed further downward from the calculated Guidelines range.

We conclude that the appeal waiver is enforceable. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (validity and applicability of appeal waiver is reviewed de novo). The record shows that Clark entered into the plea agreement and the appeal waiver knowingly and voluntarily, the arguments on appeal fall within the scope of the waiver, and no miscarriage of justice would result from enforcing the waiver. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc). Finally, having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no non-frivolous issues for appeal outside the scope of the waiver. Accordingly, we grant counsel's motion to withdraw, and we dismiss this appeal.
