

United States Court of Appeals
For the Eighth Circuit

No. 18-2563

United States of America,

Plaintiff - Appellee,

v.

Andre Jolivet,

Defendant - Appellant.

Appeal from United States District Court
for the District of North Dakota - Bismarck

Submitted: March 1, 2019

Filed: March 6, 2019

[Unpublished]

Before LOKEN, COLLOTON, and KOBES, Circuit Judges.

PER CURIAM.

Andre Jolivet directly appeals the sentence the district court¹ imposed after he pleaded guilty to a drug offense, pursuant to a plea agreement containing an appeal

¹The Honorable Daniel L. Hovland, Chief Judge, United States District Court for the District of North Dakota.

waiver. His counsel has moved to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing Jolivet should receive credit for time he spent in custody on related state charges. Jolivet requests appointment of new counsel.

We will enforce the appeal waiver in this case because Jolivet entered into the plea agreement and the appeal waiver knowingly and voluntarily, his challenge to the sentence falls within the scope of the appeal 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). Further, 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 grant counsel's motion to withdraw, deny as moot Jolivet's request for appointment of new counsel, and dismiss this appeal.
