

United States Court of Appeals
For the Eighth Circuit

No. 19-2529

United States of America

Plaintiff Appellee

v.

Virginia Marie Hayes

Defendant Appellant

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

Submitted: April 17, 2020

Filed: April 22, 2020

[Unpublished]

Before LOKEN, ERICKSON, and STRAS, Circuit Judges.

PER CURIAM.

Virginia Marie Hayes appeals after she pleaded guilty to a fraud offense pursuant to a plea agreement containing an appeal waiver, and the district court¹

¹The Honorable Howard F. Sachs, United States District Judge for the Western District of Missouri.

sentenced her to a term of imprisonment at the bottom of the advisory guidelines range. Her counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), acknowledging the appeal waiver and challenging the substantive reasonableness of the sentence.

We will enforce the appeal waiver in this case because Hayes entered into the plea agreement and the appeal waiver knowingly and voluntarily, her 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. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (standard of review); United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc). Further, having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we have found no non-frivolous issues for appeal outside the scope of the appeal waiver.

Accordingly, we dismiss this appeal based on the appeal waiver, and we grant counsel's motion to withdraw.
