

United States Court of Appeals
For the Eighth Circuit

No. 19-2833

United States of America,

Plaintiff - Appellee,

v.

Montez L. Clayton,

Defendant - Appellant.

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

Submitted: March 17, 2020

Filed: March 20, 2020

[Unpublished]

Before COLLOTON, WOLLMAN, and KELLY, Circuit Judges.

PER CURIAM.

In 2019, Montez Clayton pleaded guilty to four counts of Hobbs Act robbery, in violation of 18 U.S.C. § 1951(a), and one count of using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii). The

district court¹ sentenced him to a total of 240 months in prison and five years of supervised release, and ordered restitution of \$250. Clayton appeals, and his counsel has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), acknowledging that the plea agreement included an appeal waiver, but challenging the substantive reasonableness of the sentence and the district court's purported failure to address adequately the factors under 18 U.S.C. § 3553(a).

Following de novo review, we conclude that this appeal falls within the scope of the appeal waiver. We will enforce the waiver because the plea agreement and plea colloquy demonstrate that Clayton knowingly and voluntarily entered into the plea agreement, including its waiver provisions, and that enforcing waiver would not result in miscarriage of justice. *See United States v. Andis*, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc). In addition, we have independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75, 80 (1988), and have found no non-frivolous issues for appeal. We therefore grant counsel leave to withdraw and dismiss this appeal.

¹The Honorable Greg Kays, United States District Judge for the Western District of Missouri.