

United States Court of Appeals
For the Eighth Circuit

No. 20-2343

United States of America

Plaintiff - Appellee

v.

Mark H. King

Defendant - Appellant

Appeal from United States District Court
for the District of Nebraska - Omaha

Submitted: January 20, 2021

Filed: January 25, 2021

[Unpublished]

Before LOKEN, BENTON, and ERICKSON, Circuit Judges.

PER CURIAM.

Mark H. King appeals after he pled guilty to a sex offense pursuant to a binding plea agreement containing an appeal waiver. Having jurisdiction under 28 U.S.C. § 1291, this court dismisses the appeal.

The district court¹ imposed a sentence consistent with the plea agreement. King's counsel has moved for leave to withdraw, and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), contending that the appeal waiver was not knowing and voluntary, and arguing that the sentence is substantively unreasonable.

This court concludes that the appeal waiver is valid, enforceable, and applicable to the issue raised in this appeal. See *United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010) (validity and applicability of an appeal waiver is reviewed de novo); *United States v. Andis*, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (appeal waiver will be enforced if the appeal falls within the scope of the waiver, the defendant knowingly and voluntarily entered into the plea agreement and the waiver, and enforcing the waiver would not result in a miscarriage of justice). This court has also independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and has found no non-frivolous issues for appeal falling outside the scope of the waiver.

The appeal is dismissed, and counsel's motion to withdraw is granted.

¹The Honorable Robert F. Rossiter, Jr., United States District Judge for the District of Nebraska.