

United States Court of Appeals
For the Eighth Circuit

No. 22-2820

United States of America

Plaintiff - Appellee

v.

Eddie Dean McBride

Defendant - Appellant

Appeal from United States District Court
for the Western District of Arkansas - El Dorado

Submitted: February 21, 2023

Filed: March 1, 2023

[Unpublished]

Before LOKEN, KELLY, and KOBES, Circuit Judges.

PER CURIAM.

Eddie McBride pleaded guilty to distribution of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C). As part of the plea agreement, McBride waived

his right to appeal unless the district court¹ gave him a sentence that exceeded the statutory maximum. The district court sentenced McBride to 120 months in prison. McBride's below-Guidelines sentence does not exceed the statutory maximum. See 21 U.S.C. § 841(b)(1)(C). McBride's counsel moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging the substantive reasonableness of McBride's sentence. In a pro se brief and a supplemental memorandum, McBride challenges the district court's calculation of the advisory Guidelines range. The government moved to dismiss this appeal based on the appeal waiver.

Upon careful review, we conclude that the appeal waiver is valid, enforceable, and applicable to the issues raised in this appeal. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review of validity and applicability of appeal waiver); United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (appeal waiver will be enforced if appeal falls within scope of waiver, defendant knowingly and voluntarily entered into plea agreement and waiver, and enforcing waiver would not result in miscarriage of justice).

We have independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal falling outside the scope of the appeal waiver. Accordingly, we dismiss the appeal based on the appeal waiver and grant counsel's motion to withdraw.

¹The Honorable Susan O. Hickey, Chief Judge, United States District Court for the Western District of Arkansas.