

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 00-2761

United States of America,

Appellee,

v.

John Richard Ross,

Appellant.

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Appeal from the United States
District Court for the
Western District of Missouri.

[UNPUBLISHED]

Submitted: August 2, 2001

Filed: August 7, 2001

Before LOKEN, HANSEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

John Richard Ross pleaded guilty, on the second day of his trial, to bank fraud, in violation of 18 U.S.C. § 1014, and assaulting a federal agent, in violation of 18 U.S.C. § 111(a)(1). At sentencing, the district court¹ denied Ross an acceptance-of-responsibility reduction and sentenced him to concurrent terms of 20 months imprisonment and 5 years supervised release on each count, and ordered restitution of \$38,000. On appeal, counsel has filed a brief and moved to withdraw pursuant to

¹The HONORABLE HOWARD F. SACHS, United States District Judge for the Western District of Missouri.

Anders v. California, 386 U.S. 738 (1967), challenging only the denial of the reduction. Ross has filed a pro se supplemental brief arguing that he was compelled to plead guilty because his counsel refused to submit certain evidence at trial.

Having thoroughly reviewed the record, we conclude that in the written plea agreement Ross knowingly and voluntarily waived his right to appeal his conviction and sentence. See United States v. Morrison, 171 F.3d 567, 568 (8th Cir. 1999); United States v. Michelsen, 141 F.3d 867, 871-72 (8th Cir.), cert. denied, 525 U.S. 942 (1998). To the extent Ross argues that his plea was involuntary, we reject his argument, as he did not seek to withdraw his plea below. See United States v. Murphy, 899 F.2d 714, 716 (8th Cir. 1990) (claim that guilty plea was involuntary must first be presented to district court and is not cognizable on direct appeal).

Accordingly, we enforce the appeal waiver, dismiss this appeal, grant counsel's motion to withdraw, and deny Ross's pending motion as moot.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.