

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 07-3792

United States of America,

Appellee,

v.

Jose Cortez-Leon,

Appellant.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: May 7, 2009
Filed: May 14, 2009

Before WOLLMAN, MURPHY, and MELLOY, Circuit Judges.

PER CURIAM.

Jose Cortez-Leon appeals the 97-month prison sentence the district court¹ imposed after he pleaded guilty to a drug-conspiracy charge. His counsel has moved to withdraw and has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), arguing that Cortez-Leon's sentence was unreasonable.

Upon careful review, we conclude that this appeal falls within the scope of a valid appeal waiver that was contained in Cortez-Leon's written plea agreement, that

¹The Honorable David S. Doty, United States District Judge for the District of Minnesota.

he knowingly and voluntarily entered into the plea agreement and the appeal waiver, and that enforcing the appeal waiver would not result in a miscarriage of justice. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (discussing enforceability of appeal waiver); see also United States v. Estrada-Bahena, 201 F.3d 1070, 1071 (8th Cir. 2000) (per curiam) (enforcing appeal waiver in Anders case).

Having reviewed the record independently under Penon v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issue for appeal beyond the scope of the appeal waiver. Accordingly, we dismiss this appeal. We also grant defense counsel's motion to withdraw on condition that counsel inform appellant about the procedures for filing petitions for rehearing and for certiorari.
