

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

No. 08-2368

United States of America,	*
	*
Appellee,	*
	* Appeal from the United States
v.	* District Court for the
	* District of Nebraska.
Dario Carlon Pacheco,	*
	* [UNPUBLISHED]
Appellant.	*

Submitted: August 7, 2009
Filed: August 14, 2009

Before MURPHY, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

Dario Carlon Pacheco appeals the 120-month mandatory minimum prison sentence the district court¹ imposed after he pleaded guilty to possessing with the intent to distribute 5 kilograms or more of cocaine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A). His counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), seeking to withdraw and arguing that the prison sentence is too severe.

¹The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

Pacheco's written plea agreement contains a valid appeal waiver which encompasses the argument that counsel raises on appeal, and we conclude that the waiver is enforceable and that enforcing it would not cause 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).

After reviewing the record independently under Penon v. Ohio, 488 U.S. 75 (1988), and finding no non-frivolous issues not covered by the appeal waiver, we enforce the waiver and dismiss this appeal. We grant counsel leave to withdraw on condition that counsel inform appellant about the procedures for filing petitions for rehearing and for certiorari.
