

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

No. 09-1597

United States of America,

Appellee,

v.

Mark Roe,

Appellant.

*
*
*
*
*
*
*
*
*

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

[UNPUBLISHED]

Submitted: January 21, 2010

Filed: February 4, 2010

Before BYE, RILEY, and SHEPHERD, Circuit Judges.

PER CURIAM.

In this direct criminal appeal, Mark Roe challenges the district court's¹ judgment entered upon his guilty plea to drug charges. His counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967).

Roe's plea agreement contains an appeal waiver, and we will enforce it. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (court should enforce appeal waiver and dismiss appeal where it falls within scope of waiver, both

¹The Honorable E. Richard Webber, United States District Judge for the Eastern District of Missouri.

plea agreement and waiver were entered into knowingly and voluntarily, and no miscarriage of justice would result). Roe's arguments on appeal fall within the scope of the appeal waiver, the record shows the requisite knowledge and voluntariness, and we see nothing to suggest that a miscarriage of justice would result from enforcing the appeal waiver. See United States v. Michelsen, 141 F.3d 867, 871-72 (8th Cir. 1998) (appeal waiver is enforceable so long as it resulted from knowing and voluntary decision; examining personal characteristics of defendant and circumstances surrounding plea agreement when assessing knowledge and voluntariness of waiver). Further, any ineffective-assistance claim is not properly raised in this direct appeal. See United States vs. Ramirez-Hernandez, 449 F.3d 824, 827 (8th Cir. 2006).

Having reviewed the record independently pursuant to Penon v. Ohio, 488 U.S. 75 (1988), for any nonfrivolous issues not covered by the waiver, we find none. Accordingly, we grant counsel's motion to withdraw, and we dismiss the appeal.
