

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-3514

United States of America,

Appellee,

v.

Joshua James Roberts,

Appellant.

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* Appeal from the United States
* District Court for the
* Northern District of Iowa.
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* [UNPUBLISHED]
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Submitted: May 28, 2010

Filed: June 2, 2010

Before WOLLMAN, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Joshua Roberts was charged with conspiring to manufacture 5 grams or more of actual (pure) methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B) and 846. He pleaded guilty in accord with a written plea agreement, which contained an appeal waiver. The district court¹ sentenced Roberts to 262 months in prison, the bottom of the advisory Guidelines range. On appeal, counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), and seeks to withdraw.

¹The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

We will enforce the appeal waiver in this case because Roberts's appeal falls within the scope of the waiver, the record shows the requisite knowledge and voluntariness, and enforcing the appeal waiver would not constitute a miscarriage of justice. 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 appeal falls within scope of waiver, both plea agreement and waiver were entered into knowingly and voluntarily, and no miscarriage of justice would result); see also United States v. Estrada-Bahena, 201 F.3d 1070, 1071 (8th Cir. 2000) (per curiam) (enforcing appeal waiver in Anders case).

Having independently reviewed the record under Penon v. Ohio, 488 U.S. 75, 80 (1988), we have found no nonfrivolous issue not covered by the waiver. Accordingly, we grant counsel leave to withdraw, and we dismiss this appeal.
