

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

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No. 12-1125

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United States of America,

Appellee,

v.

Rick Ray Stauffacher,

Appellant.

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\* Appeal from the United States

\* District Court for the

\* District of Minnesota.

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\* [UNPUBLISHED]

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Submitted: July 18, 2012

Filed: July 18, 2012

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Before BYE, GRUENDER, and BENTON, Circuit Judges.

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PER CURIAM.

Pursuant to a written plea agreement, Rick Ray Stauffacher pled guilty to a drug-trafficking conspiracy offense. The district court<sup>1</sup> imposed the statutory minimum sentence of 120 months in prison. On appeal, Stauffacher's counsel seeks leave to withdraw and has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), arguing that the sentence is cruel and unusual punishment and unreasonable.

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<sup>1</sup>The Honorable Richard H. Kyle, United States District Judge for the District of Minnesota.

The written plea agreement contains an appeal waiver under which Stauffacher waived all rights to appeal his sentence if the district court imposed a sentence at or below 121 months in prison. After careful review of the record, *see United States v. Azure*, 571 F.3d 769, 772 (8th Cir. 2008) (de novo review of whether defendant waived right to appeal sentence), this court enforces the appeal waiver. The district court sentenced Stauffacher at or below 121 months in prison, and thus the appeal waiver became effective; the argument on appeal falls within the scope of the waiver; the record shows that Stauffacher entered into the plea agreement and the appeal waiver knowingly and voluntarily; and no miscarriage of justice would result from enforcing the waiver, *see United States v. Andis*, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (discussing enforceability of appeal waivers).

Having reviewed the record independently under *Penon v. Ohio*, 488 U.S. 75, 80 (1988), this court finds no nonfrivolous issues outside the scope of the appeal waiver. This court grants counsel leave to withdraw, and dismisses the appeal.

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