

United States Court of Appeals
For the Eighth Circuit

No. 16-3305

United States of America

Plaintiff - Appellee

v.

Aaron Lawrence Storm

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Des Moines

Submitted: March 6, 2017

Filed: March 10, 2017

[Unpublished]

Before SMITH, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

Aaron Storm appeals after he pleaded guilty to child-pornography and attempted-kidnapping charges, under a written plea agreement containing an appeal

waiver, and the District Court¹ imposed the agreed-upon sentence. At his sentencing hearing, Storm moved pro se to withdraw his guilty plea, and the court denied his motion. On appeal, Storm's counsel has moved for leave to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging the denial of Storm's motion to withdraw his plea. Storm has not filed a pro se brief.

We conclude that the appeal waiver is enforceable and applicable to the issue raised in this appeal, based in part on Storm's own statements at his change-of-plea hearing. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (reviewing de novo the validity and applicability of an appeal waiver); United States v. Andis, 333 F.3d 886, 889–92 (8th Cir.) (en banc) (discussing enforcement of appeal waivers), cert. denied, 540 U.S. 997 (2003); see also Nguyen v. United States, 114 F.3d 699, 703 (8th Cir. 1997) (noting that a defendant's representations made during a plea hearing are presumed to be true).

We have independently reviewed the record under Penson v. Ohio, 488 U.S. 75, 80 (1988), and have found no non-frivolous issues for appeal outside the scope of the waiver. Accordingly, we grant counsel's motion, and we dismiss this appeal.

¹The Honorable John A. Jarvey, Chief Judge, United States District Court for the Southern District of Iowa.