

United States Court of Appeals  
For the Eighth Circuit

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No. 16-4507

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United States of America

*Plaintiff - Appellee*

v.

Gary Lynn Sanders

*Defendant - Appellant*

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Appeal from United States District Court  
for the Eastern District of Arkansas - Little Rock

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Submitted: July 19, 2017

Filed: July 24, 2017

[Unpublished]

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Before WOLLMAN, LOKEN, and BENTON, Circuit Judges.

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PER CURIAM.

In this direct criminal appeal, Gary Sanders challenges the sentence the district court<sup>1</sup> imposed after he pleaded guilty to drug charges, pursuant to a written plea

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<sup>1</sup>The Honorable Kristine G. Baker, United States District Judge for the Eastern District of Arkansas.

agreement. His counsel has moved to withdraw and submitted a brief under Anders v. California, 386 U.S. 738 (1967), raising the issue that the government breached the plea agreement by not agreeing to a sentence below the statutory minimum, and therefore invalidated the appeal waiver; and that the sentence was unreasonable.

We conclude that the appeal waiver is enforceable, because our review of the record demonstrates that the government did not breach the plea agreement, as it did not promise to move for a sentence below the statutory minimum, see United States v. Kelly, 18 F.3d 612, 615, 617 (8th Cir. 1994); Sanders entered into the plea agreement and the appeal waiver knowingly and voluntarily, see Nguyen v. United States, 114 F.3d 699, 703 (8th Cir. 1997); the argument falls within the scope of the waiver; and no miscarriage of justice would result from enforcing the waiver, see United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review); United States v. Andis, 333 F.3d 886, 890-92 (8th Cir. 2003) (en banc). Furthermore, we have independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (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.

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