

United States Court of Appeals
For the Eighth Circuit

No. 18-1784

United States of America

Plaintiff - Appellee

v.

Donnell Draper

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: November 30, 2018

Filed: December 6, 2018

[Unpublished]

Before KELLY, GRASZ, and STRAS, Circuit Judges.

PER CURIAM.

Donnell Draper pleaded guilty to being a felon in possession of a firearm. 18 U.S.C. §§ 922(g)(1), 924(a)(2). As part of his plea agreement, Draper waived the right to appeal except to challenge an illegal sentence or to raise ineffective assistance

of counsel or prosecutorial misconduct. The district court¹ sentenced Draper to a prison term at the bottom of the Sentencing Guidelines range, and he now directly appeals his sentence. Draper's counsel has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), and has asked to withdraw. The *Anders* brief disputes a Guidelines enhancement applied at sentencing and the overall reasonableness of Draper's sentence.

We review the validity and applicability of an appeal waiver de novo. *See United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010). Upon careful review, we conclude that the appeal waiver is enforceable, that it is applicable to the issues raised in this appeal, and that none of the exceptions to the waiver apply. *See United States v. Andis*, 333 F.3d 886, 889–92 (8th Cir. 2003) (en banc) (explaining that an appeal waiver will be enforced if the appeal falls within the scope of the waiver, the defendant knowingly and voluntarily entered into the plea agreement and the waiver, and enforcing the waiver would not result in a miscarriage of justice). We have also independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and there are no non-frivolous issues for appeal falling outside the scope of the appeal waiver. Accordingly, we dismiss this appeal, and we grant counsel permission to withdraw.

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.