

United States Court of Appeals  
For the Eighth Circuit

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No. 22-3325

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United States of America

*Plaintiff - Appellee*

v.

Demetrius Smith

*Defendant - Appellant*

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Appeal from United States District Court  
for the Eastern District of Missouri - St. Louis

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Submitted: May 17, 2023

Filed: May 23, 2023

[Unpublished]

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Before COLLOTON, ERICKSON, and KOBES, Circuit Judges.

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PER CURIAM.

Demetrius Smith appeals the above-Guidelines-range sentence imposed by the district court<sup>1</sup> after he pled guilty to several counts of Hobbs Act robbery and a count

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<sup>1</sup>The Honorable Ronnie L. White, United States District Judge for the Eastern District of Missouri.

of attempted Hobbs Act robbery, pursuant to a plea agreement containing an appeal waiver. His counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing the district court committed procedural error at sentencing and imposed an unreasonable sentence.

Upon careful review, we conclude that the appeal waiver is valid, enforceable, and applicable to the issues raised in this appeal. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (reviewing de novo validity and applicability of appeal waiver); United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (enforcing appeal waiver if appeal falls within scope of waiver, defendant knowingly and voluntarily entered into waiver and plea agreement, and enforcing waiver would not result in miscarriage of justice).

Further, having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no non-frivolous issues for appeal outside the scope of the appeal waiver. Accordingly, we dismiss this appeal based on the appeal waiver, and we grant counsel's motion to withdraw.

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