

United States Court of Appeals
For the Eighth Circuit

No. 23-1339

United States of America

Plaintiff - Appellee

v.

Hon Chau

Defendant - Appellant

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

Submitted: May 23, 2023

Filed: June 2, 2023

[Unpublished]

Before LOKEN, BENTON, and STRAS, Circuit Judges.

PER CURIAM.

Hon Chau appeals the sentence the district court¹ imposed after he pled guilty to drug and firearm offenses pursuant to a plea agreement containing an appeal

¹The Honorable M. Douglas Harpool, United States District Judge for the Western District of Missouri.

waiver. Having jurisdiction under 28 U.S.C. § 1291, this court dismisses the appeal based on the appeal waiver.

Counsel has moved for leave to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), acknowledging the appeal waiver, but challenging the sentence as substantively unreasonable. This court concludes that the appeal waiver is enforceable, as counsel's argument falls within the scope of the appeal waiver, the record shows that Chau 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. Scott*, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review); *United States v. Andis*, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (appeal waiver will be enforced 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).

This court has reviewed the record independently under *Penson v. Ohio*, 488 U.S. 75 (1988), and has found no non-frivolous issues outside the scope of the appeal waiver.

The appeal is dismissed, and counsel's request to withdraw is granted.
