

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-3192

United States of America,

Appellee,

v.

Michael Hogans,

Appellant.

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

[UNPUBLISHED]

Submitted: November 3, 2008

Filed: November 6, 2008

Before MELLOY, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

Michael Hogans appeals the 240-month sentence the district court¹ imposed upon his guilty plea to possessing with intent to distribute in excess of 50 grams of a mixture or substance containing cocaine base, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(iii), and possessing with intent to distribute in excess of 5 grams of a mixture or substance containing cocaine base, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(iii). His counsel has filed a brief under Anders v. California, 386 U.S. 738

¹The Honorable Henry E. Autrey, United States District Judge for the Eastern District of Missouri.

(1967), in which he seeks leave to withdraw and argues the district court committed plain error in sentencing Hogans.

Hogans's written plea agreement contains a waiver of the right to appeal his sentence. We enforce the waiver, because Hogans knowingly and voluntarily entered into both the plea agreement and the appeal waiver, the arguments on appeal fall within the scope of the waiver, and no injustice would result from enforcing it. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc).

Having reviewed the record independently under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues for appeal beyond the scope of the appeal waiver. Accordingly, we dismiss this appeal. We also grant defense counsel's motion to withdraw and deny Hogans's pending pro se motion.
