United States Court of Appeals
For the Eighth Circuit

No. 15-1035

United States of America

Plaintiff - Appellee

v.

Brett Charles Roach

Defendant - Appellant

Appeal from United States District Court
for the District of South Dakota - Aberdeen

Submitted: September 22, 2015
Filed: September 25, 2015
[Unpublished]

Before WOLLMAN, BYE, and GRUENDER, Circuit Judges.

PER CURIAM.

Brett Roach directly appeals the judgment of the district court[1] entered upon a jury verdict finding him guilty of an assault charge, in violation of 18 U.S.C.

[1]The Honorable Charles B. Kornmann, United States District Judge for the District of South Dakota.

§§ 113(a)(6), 1153, and 3559(f). On appeal, in a brief filed under Anders v. California, 386 U.S. 738 (1967), Roach's counsel argues (1) that jurisdiction was lacking because the alleged assault may not have taken place in Indian country, as charged in the indictment, an argument that Roach repeats in his pro se supplemental brief; (2) that the evidence was insufficient to establish the victim suffered a "serious bodily injury" as charged in the indictment; and (3) that Roach received ineffective assistance of counsel in several respects.

First, at trial Roach stipulated that the alleged offense occurred in Indian country. Therefore, he waived any right to argue on appeal that jurisdiction was lacking because the alleged offense did not occur in Indian country. See United States v. Hawkins, 215 F.3d 858, 860 (8th Cir. 2000). Second, the testimony of the medical professionals amply established that the victim suffered serious bodily injury. See United States v. Iron Hawk, 612 F.3d 1031, 1036-37 (8th Cir. 2010). Third, we do not consider the ineffective-assistance-of-counsel claims in this direct criminal appeal, as such claims are best raised in possible proceedings under 28 U.S.C. § 2255, where the record can be developed as necessary. See United States v. McAdory, 501 F.3d 868, 872-73 (8th Cir. 2007). Finally, having independently reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75, 80 (1988), we have found no nonfrivolous issue. The judgment is affirmed, and counsel's motion to withdraw is granted.
