

United States Court of Appeals
For the Eighth Circuit

No. 17-2105

United States of America

Plaintiff - Appellee

v.

Feliciano Lopez-Castillo

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota - St. Paul

Submitted: December 7, 2017

Filed: December 12, 2017

[Unpublished]

Before GRUENDER, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

Feliciano Lopez-Castillo directly appeals the sentence the district court¹ imposed after he pled guilty to a drug offense. His counsel moves for leave to

¹The Honorable Joan N. Ericksen, United States District Court Judge for the District of Minnesota.

withdraw, and has submitted a brief under *Anders v. California*, 386 U.S. 738 (1967). The government has filed a motion to dismiss based on the appeal waiver. Having jurisdiction under 28 U.S.C. § 1291, this court dismisses the appeal.

Counsel challenges the calculation of Lopez-Castillo's Guidelines imprisonment range, but concedes that the appeal waiver is applicable and enforceable. This court concludes that the appeal waiver is enforceable. *See United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review of validity and applicability of appeal waiver). The record establishes that Lopez-Castillo entered into the plea agreement and the appeal waiver knowingly and voluntarily, that the arguments on appeal fall within the scope of the waiver, and that no miscarriage of justice would result from enforcing the waiver. *See United States v. Andis*, 333 F.3d 886, 889–92 (8th Cir. 2003) (en banc). An independent review of the record reveals no non-frivolous issues for appeal outside the scope of the waiver. *See Penson v. Ohio*, 488 U.S. 75 (1988).

The appeal is dismissed. Counsel's motion to withdraw is granted.
