

United States Court of Appeals
For the Eighth Circuit

No. 18-1203

United States of America

Plaintiff - Appellee

v.

Terry Jerome Pitts

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Arkansas - Little Rock

Submitted: December 27, 2018

Filed: January 9, 2019

[Unpublished]

Before GRUENDER, WOLLMAN, and STRAS, Circuit Judges.

PER CURIAM.

Terry Pitts appeals a 15-year prison sentence and an order to pay \$1,593.55 in restitution. He received both after pleading guilty to discharging a firearm in furtherance of a drug-trafficking crime, 18 U.S.C. § 924(c)(1)(A)(iii).

When he pleaded guilty, Pitts signed a plea agreement containing a term that “waive[d]” his right to appeal any restitution order. This term is enforceable, even though the district court¹ did not discuss it with him, and requires us to disregard his challenge to the restitution award. *Cf. United States v. Molzen*, 382 F.3d 805, 807 (8th Cir. 2004).

We also reject Pitts’s other claims. We conclude that his sentence is substantively reasonable, *see United States v. Feemster*, 572 F.3d 455, 461 (8th Cir. 2009) (en banc), his ineffective-assistance-of-counsel claims are premature, *see United States v. Brown*, 183 F.3d 740, 743 (8th Cir. 1999) (“We will consider an ineffective assistance of counsel claim on direct appeal only in exceptional cases where the district court has developed a record on the ineffectiveness issue or where the result would otherwise be a plain miscarriage of justice.”), and his indictment was not constructively amended. Accordingly, we affirm the judgment. *See* 8th Cir. R. 47B.

¹The Honorable D.P. Marshall, Jr., United States District Judge for the Eastern District of Arkansas.