

United States Court of Appeals
For the Eighth Circuit

No. 18-2615

United States of America

Plaintiff - Appellee

v.

Benny Lee Jackson

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri - Cape Girardeau

Submitted: March 6, 2019

Filed: March 11, 2019

[Unpublished]

Before BENTON, BOWMAN, and GRASZ, Circuit Judges.

PER CURIAM.

Benny Lee Jackson appeals the sentence the district court¹ imposed after he pled guilty to a firearm offense. Having jurisdiction under 28 U.S.C. § 1291, this court dismisses the appeal.

Counsel has moved for leave to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing that the sentence is unreasonable. The district court accepted the parties' binding Federal Rule of Criminal Procedure 11(c)(1)(C) plea agreement, and imposed a sentence pursuant to the plea agreement. This court concludes that the appeal waiver is enforceable, as the record demonstrates that Jackson entered into the plea agreement and the appeal waiver knowingly and voluntarily, his challenge to the sentence falls within the scope of the appeal waiver, 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 *Penon v. Ohio*, 488 U.S. 75 (1988), and found no non-frivolous issues outside the scope of the appeal waiver.

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

¹The Honorable Audrey G. Fleissig, United States District Judge for the Eastern District of Missouri.