

United States Court of Appeals  
For the Eighth Circuit

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No. 18-1900

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United States of America,

*Plaintiff - Appellee,*

v.

Jason Lee Kirtley,

*Defendant - Appellant.*

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Appeal from United States District Court  
for the Western District of Missouri - St. Joseph

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Submitted: April 25, 2019

Filed: May 3, 2019

[Unpublished]

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Before COLLOTON, WOLLMAN, and KELLY, Circuit Judges.

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PER CURIAM.

Jason Kirtley directly appeals the sentence the district court<sup>1</sup> imposed after he pleaded guilty to a drug offense, pursuant to plea agreement containing an appeal

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<sup>1</sup>The Honorable Greg Kays, United States District Judge for the Western District of Missouri.

waiver. His counsel has moved to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), challenging the sentence as substantively unreasonable. Kirtley has moved for appointment of new counsel.

We will enforce the appeal waiver in this case because Kirtley 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); *United States v. Andis*, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc). Further, we have independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal outside the scope of the appeal waiver.

Accordingly, we grant counsel's motion to withdraw, deny as moot Kirtley's pending motion, and dismiss this appeal.

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