

United States Court of Appeals
For the Eighth Circuit

No. 18-3335

United States of America

Plaintiff - Appellee

v.

Peter William Ihnken

Defendant - Appellant

Appeal from United States District Court
for the District of North Dakota - Fargo

Submitted: September 5, 2019
Filed: September 10, 2019
[Unpublished]

Before BENTON, SHEPHERD, and KELLY, Circuit Judges.

PER CURIAM.

Peter Ihnken appeals his conviction and the sentence the district court¹ imposed after he pleaded guilty to a felon-in-possession offense, pursuant to a plea agreement

¹The Honorable James M. Moody, Jr., United States District Judge for the Eastern District of Arkansas, sitting by designation in the District of North Dakota.

containing a partial appeal waiver. His counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), raising issues regarding whether Ihnken's prior felony convictions prohibited him from possessing firearms or ammunition; whether his sentence should have been enhanced under the Armed Career Criminal Act; and whether he was misled, at the change-of-plea hearing, into believing he would receive a shorter prison term. We conclude that the appeal waiver is valid and enforceable, and that it applies to the issues counsel raises on appeal. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review of validity and applicability of appeal waiver); United States v. Andis, 333 F.3d 886, 890-91 (8th Cir. 2003) (en banc) (appeal waiver will be enforced if appeal falls within scope of waiver, defendant knowingly and voluntarily entered into plea agreement and waiver, and enforcing waiver would not result in miscarriage of justice).

Having reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we find no non-frivolous issues for appeal outside the scope of the appeal waiver. Accordingly, we dismiss this appeal, and we grant counsel leave to withdraw.
