United States Court of Appeals
For the Eighth Circuit

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No. 20-1467

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United States of America

Plaintiff - Appellee

v.

Kelly Shayne Mason, also known as Kelly Shane Mason

Defendant - Appellant

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

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Submitted: September 17, 2020
Filed: September 22, 2020
[Unpublished]

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Before COLLOTON, BENTON, and KOBES, Circuit Judges.

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PER CURIAM.

Kelly Shayne Mason appeals the sentence the district court[1] imposed after he pled guilty, pursuant to a plea agreement containing an appeal waiver, to aggravated

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[1]The Honorable Daniel L. Hovland, United States District Judge for the District of North Dakota.

sexual abuse of a child. Having jurisdiction under 28 U.S.C. § 1291, this court dismisses the appeal based on the appeal waiver.

Counsel has moved for leave to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), acknowledging the appeal waiver, but challenging the sentence as unreasonable. This court concludes that the appeal waiver is enforceable, because counsel's argument falls within the scope of the appeal waiver. The record shows that Mason entered into the plea agreement and the appeal waiver knowingly and voluntarily, 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); see also 18 U.S.C. § 2241(c) (maximum sentence is life).

This court has reviewed the record independently under *Penson v. Ohio*, 488 U.S. 75 (1988), and has found no non-frivolous issues outside the scope of the appeal waiver.

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

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