

United States Court of Appeals  
For the Eighth Circuit

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No. 20-2979

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United States of America

*Plaintiff - Appellee*

v.

Kenton Burton, Jr.

*Defendant - Appellant*

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No. 20-2983

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United States of America

*Plaintiff - Appellee*

v.

Kenton Burton, Jr.

*Defendant - Appellant*

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Appeals from United States District Court  
for the Eastern District of Missouri - St. Louis

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Submitted: May 6, 2021

Filed: May 11, 2021

[Unpublished]

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Before SHEPHERD, GRASZ, and KOBES, Circuit Judges.

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PER CURIAM.

In these consolidated appeals, Kenton Burton appeals the sentence the district court<sup>1</sup> imposed at his consolidated sentencing after he pleaded guilty to bank robbery and his supervised release was revoked. His counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging the sentence.

Upon careful review, we conclude that the appeal waiver is valid, enforceable, and applicable to the issues counsel raises challenging the brandishing enhancement and the substantive reasonableness of the bank robbery sentence. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (validity and applicability of an appeal waiver is reviewed de novo); United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (appeal waiver will be enforced if the appeal falls within the scope of the waiver, the defendant knowingly and voluntarily entered into the plea agreement and the waiver, and enforcing the waiver would not result in a miscarriage of justice).

To the extent Burton challenges the calculation of his criminal history, we conclude that the district court's calculation was correct. See United States v. Turner, 781 F.3d 374, 393 (8th Cir. 2015) (construction and application of Guidelines are reviewed de novo). To the extent he challenges the reasonableness of his supervised release revocation sentence, we conclude it was not substantively unreasonable. See United States v. Miller, 557 F.3d 910, 915-18 (8th Cir. 2009) (substantive

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<sup>1</sup>The Honorable Catherine D. Perry, United States District Judge for the Eastern District of Missouri.

reasonableness of revocation sentence is reviewed under deferential abuse-of-discretion standard).

We have also independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal falling outside the scope of the waiver. Accordingly, we dismiss this appeal in part based on the appeal waiver, otherwise affirm, and we grant counsel's motion to withdraw.

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