

United States Court of Appeals
For the Eighth Circuit

No. 21-1043

United States of America

Plaintiff - Appellee

v.

Michael K. Sinnawi

Defendant - Appellant

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

Submitted: July 27, 2021

Filed: July 30, 2021

[Unpublished]

Before SHEPHERD, GRASZ, and STRAS, Circuit Judges.

PER CURIAM.

Michael Sinnawi pleaded guilty to possession with intent to distribute oxycodone. *See* 18 U.S.C. § 2; 21 U.S.C. § 841(a)(1), (b)(1)(C). As part of his plea agreement, he waived his right to appeal his sentence unless, as relevant here, it exceeded “the upper limit of the [advisory] [S]entencing [G]uideline[s] range”

calculated by the district court.¹ The court gave him a 36-month sentence, which was within the range it calculated. In an *Anders* brief, Sinnawi’s counsel raises the substantive reasonableness of the sentence and requests permission to withdraw. See *Anders v. California*, 386 U.S. 738 (1967).

We review the validity and applicability of an appeal waiver de novo. See *United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010). Upon careful review, we conclude that the appeal waiver is enforceable and that it is applicable to the issue raised on appeal. See *United States v. Andis*, 333 F.3d 886, 889–92 (8th Cir. 2003) (en banc) (explaining that an 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). We have also independently reviewed the record and conclude that no other non-frivolous issues exist. See *Penson v. Ohio*, 488 U.S. 75, 82–83 (1988). Accordingly, we dismiss the appeal and grant counsel permission to withdraw.

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