

United States Court of Appeals
For the Eighth Circuit

No. 21-1968

United States of America

Plaintiff - Appellee

v.

Roberto Lopez Gomez

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Central¹

Submitted: November 3, 2021

Filed: November 18, 2021

[Unpublished]

Before COLLOTON, SHEPHERD, and STRAS, Circuit Judges.

PER CURIAM.

Roberto Lopez Gomez pleaded guilty to attempted enticement of a minor. *See* 18 U.S.C. § 2422(b). As part of the plea agreement, he waived the right to appeal

¹The Honorable Rebecca Goodgame Ebinger, United States District Judge for the Southern District of Iowa.

his conviction, except for, as relevant here, ineffective assistance of counsel. An *Anders* brief questions whether Gomez should have been allowed to plead guilty to a different crime. *See Anders v. California*, 386 U.S. 738 (1967).

We conclude that this issue falls squarely within the appeal waiver. *See United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010) (reviewing the validity of an appeal waiver de novo); *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). And to the extent the brief suggests that plea counsel did a poor job of representing Gomez during plea negotiations, a claim of this type is “usually best litigated in collateral proceedings.” *United States v. Ramirez-Hernandez*, 449 F.3d 824, 826–27 (8th Cir. 2006).

Finally, we have 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.
