

United States Court of Appeals
For the Eighth Circuit

No. 21-2065

United States of America

Plaintiff - Appellee

v.

Lionel Thompson

Defendant - Appellant

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

Submitted: October 20, 2021

Filed: November 4, 2021

[Unpublished]

Before COLLOTON, SHEPHERD, and STRAS, Circuit Judges.

PER CURIAM.

Lionel Thompson received a 120-month prison sentence after he pleaded guilty to possession with intent to distribute methamphetamine. See 21 U.S.C. § 841(a)(1), (b)(1)(C). As part of the plea agreement, he waived the right to appeal his conviction and sentence, except for, as relevant here, ineffective assistance of

counsel. In an *Anders* brief, Thompson’s counsel questions the district court’s¹ denial of a motion to appoint new counsel and the substantive reasonableness of the sentence. See *Anders v. California*, 386 U.S. 738 (1967). A pro se supplemental brief discusses the offense-level calculation and raises ineffective assistance of counsel.

The appeal waiver, which is enforceable, covers all but one of these issues. 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). For that one, ineffective assistance of counsel, we decline to consider it now. See *United States v. Ramirez-Hernandez*, 449 F.3d 824, 826–27 (8th Cir. 2006) (explaining that this type of claim is “usually best litigated in collateral proceedings”).

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, grant counsel permission to withdraw, and deny the pending pro se motion as moot.

¹The Honorable Stephen N. Limbaugh, Jr., United States District Judge for the Eastern District of Missouri.