

United States Court of Appeals
For the Eighth Circuit

No. 21-2125

United States of America

Plaintiff - Appellee

v.

Dale Roberson

Defendant - Appellant

Appeal from United States District Court
for the District of Nebraska - Lincoln¹

Submitted: November 4, 2021

Filed: November 18, 2021

[Unpublished]

Before COLLOTON, SHEPHERD, and STRAS, Circuit Judges.

PER CURIAM.

Dale Roberson received a 180-month prison sentence after he pleaded guilty to conspiring to distribute methamphetamine. See 21 U.S.C. §§ 841(a)(1),

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.

841(b)(1)(A), 846. 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, Roberson’s counsel suggests that the sentence is substantively unreasonable. See *Anders v. California*, 386 U.S. 738 (1967). A pro se supplemental brief alleges that counsel was ineffective.

The appeal waiver, which is enforceable, covers the sentencing issue. 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 we decline to consider the ineffective-assistance-of-counsel claim on direct appeal. 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.