

United States Court of Appeals
For the Eighth Circuit

No. 22-1383

United States of America

Plaintiff - Appellee

v.

Dyqwon D. Brown

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: June 28, 2022

Filed: July 1, 2022

[Unpublished]

Before GRUENDER, BENTON, and STRAS, Circuit Judges.

PER CURIAM.

Dyqwon Brown received a 96-month prison sentence after he pleaded guilty to being a felon in possession of ammunition. *See* 18 U.S.C. §§ 922(g)(1), 924(a)(2). 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. An *Anders* brief questions the enforceability of the plea agreement, the

substantive reasonableness of the sentence imposed by the district court,¹ and counsel's performance. *See Anders v. California*, 386 U.S. 738 (1967).

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, it is too early to consider it given the state of the record. *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 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 Beth Phillips, Chief Judge, United States District Court for the Western District of Missouri.