

United States Court of Appeals
For the Eighth Circuit

No. 23-1956

United States of America

Plaintiff - Appellee

v.

Ezekiel D. Barry

Defendant - Appellant

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

Submitted: October 12, 2023

Filed: October 17, 2023

[Unpublished]

Before LOKEN, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Ezekiel Barry appeals the below-Guidelines-range sentence the district court¹ imposed after he pled guilty to a drug offense pursuant to a plea agreement containing

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.

an appeal waiver. His counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging Barry's career-offender classification.

Upon careful review, we conclude the appeal waiver is valid, enforceable, and applicable to the issues raised in this appeal. *See United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010) (reviewing de novo the validity and applicability of an appeal waiver); *United States v. Andis*, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (enforcing appeal waiver 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).

Further, we have independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal outside the scope of the appeal waiver. Accordingly, we grant counsel's motion to withdraw and dismiss this appeal.
