

United States Court of Appeals
For the Eighth Circuit

No. 23-3748

United States of America

Plaintiff - Appellee

v.

Nicholas Antwain Dancy

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota

Submitted: May 23, 2024

Filed: May 29, 2024

[Unpublished]

Before GRUENDER, ERICKSON, and STRAS, Circuit Judges.

PER CURIAM.

Nicholas Dancy appeals the below-Guidelines-range sentence the district court¹ imposed after he pled guilty to robbery and firearm charges pursuant to a written plea

¹The Honorable John R. Tunheim, United States District Judge for the District of Minnesota.

agreement containing an appeal waiver. His counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging the sentence.

Upon careful review, we conclude that the appeal waiver is valid, enforceable, and applicable to the issue raised in this appeal. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (reviewing de novo validity and applicability of appeal waiver); United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc) (enforcing appeal waiver if appeal falls within scope of waiver, defendant knowingly and voluntarily entered into waiver and plea agreement, and enforcing waiver would not result in miscarriage of justice). Further, having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no non-frivolous issues for appeal outside the scope of the appeal waiver.

Accordingly, we dismiss this appeal based on the appeal waiver, and we grant counsel's motion to withdraw.
