

United States Court of Appeals
For the Eighth Circuit

No. 24-1557

United States of America

Plaintiff - Appellee

v.

Michael Lee Gene Stapleton

Defendant - Appellant

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

Submitted: August 6, 2024

Filed: August 9, 2024

[Unpublished]

Before GRUENDER, SHEPHERD, and ERICKSON, Circuit Judges.

PER CURIAM.

Michael Lee Gene Stapleton appeals after he pled guilty to mail fraud charges pursuant to a written plea agreement containing an appeal waiver and the district

court¹ imposed a within-Guidelines sentence and ordered restitution. His counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging the sentence and restitution order and suggesting Stapleton asserts he received ineffective assistance of counsel.

We decline to consider any claims of ineffective assistance of counsel on direct appeal. See United States v. Ramirez-Hernandez, 449 F.3d 824, 826-27 (8th Cir. 2006) (stating that ineffective-assistance claims are usually best litigated in collateral proceedings where record can be properly developed). Upon careful review, we conclude the appeal waiver is valid, enforceable, and applicable to the other issues 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) (appeal waiver will be enforced if appeal falls within scope of the waiver, defendant knowingly and voluntarily entered into plea agreement and waiver, and enforcing waiver would not result in miscarriage of justice). Further, having independently reviewed the record under Penon v. Ohio, 488 U.S. 75 (1988), we find 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.

¹The Honorable Roseann A. Ketchmark, United States District Judge for the Western District of Missouri.