

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted June 12, 2025

Decided June 13, 2025

BeforeDIANE S. SYKES, *Chief Judge*MICHAEL Y. SCUDDER, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 24-2087

UNITED STATES OF AMERICA,
*Plaintiff-Appellee,**v.*VORHEESE D. ZANDERS,
*Defendant-Appellant.*Appeal from the United States District
Court for the Northern District of
Indiana, Fort Wayne Division.

No. 1:19-cr-62-001

Holly A. Brady,
*Chief Judge.***ORDER**

Vorheese Zanders pleaded guilty—pursuant to a plea agreement—to possessing fentanyl with intent to distribute, 21 U.S.C. § 841(a)(1), and possessing a firearm in furtherance of a drug trafficking crime, 18 U.S.C. § 924(c). Zanders appeals, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Counsel’s brief explains the nature of the case and addresses issues that an appeal of this kind might be expected to involve, and Zanders has responded to the motion. *See* CIR. R. 51(b). Because counsel’s analysis appears thorough, we limit our review to subjects that counsel and Zanders discuss.

See United States v. Bey, 748 F.3d 774, 776 (7th Cir. 2014). We conclude that Zanders has no arguable issues on appeal, and we grant the motion and dismiss the appeal.

In 2019, following a years-long investigation, Zanders was charged with ten drug and firearm offenses in connection with his role in a drug trafficking organization called the “Thrust Godz.” Zanders entered into a written agreement to plead guilty to two of the charged offenses—possession with intent to distribute 40 grams or more of fentanyl, 21 U.S.C. § 841(a)(1), and possession of a firearm in furtherance of a drug trafficking crime, 18 U.S.C. § 924(c)—in exchange for the dismissal of the eight other charges. The agreement stated that Zanders qualified for a three-level reduction for acceptance of responsibility and that the government would recommend a sentence “equal to the minimum of the applicable guideline range.” The parties further agreed, “pursuant to the Drug Quantity Table in U.S.S.G. § 2D1.1, that the amount of controlled substances involved in [the] offense of conviction including relevant conduct was no more than 3,000 kilograms of Converted Drug Weight.” The agreement also included a waiver of Zanders’s appellate rights.

At a change-of-plea hearing, Zanders pleaded guilty to the two offenses stated in the plea agreement. The magistrate judge asked Zanders whether he understood the terms of the plea agreement, whether he had been coerced into accepting the agreement, and whether the government had made any assurances or side promises to him that were not contained in the agreement. Zanders responded that he understood the plea agreement and that the agreement was not the result of coercion or other promises. Additionally, the magistrate judge asked whether Zanders understood the appellate waiver in the plea agreement, and Zanders responded that he did. After hearing the factual basis for the plea and finding it sufficient, the magistrate judge determined that the plea should be accepted. The district judge later accepted this recommendation to accept Zanders’s guilty plea.

The presentence investigation report (PSR) set forth the applicable calculations under the Sentencing Guidelines. It recommended a total offense level of 33 and criminal history category of III, resulting in a guidelines range of 228 to 270 months’ imprisonment for both offenses. These figures derived from a base offense level of 30, because Zanders was “responsible for at least 1,000 kilograms but less than 3,000 kilograms of Converted Drug Weight.” *See* U.S.S.G. § 2D1.1(a)(5), (c)(5). The PSR then added three two-level adjustments for maintaining a premises for manufacturing or distributing a controlled substance; committing the offense as part of a criminal livelihood; and acting as an organizer, leader, manager or supervisor in the criminal

activity. *See id.* § 2D1.1(b)(12), (16)(E); *id.* § 3B1.1(c). Finally, the PSR subtracted three points for acceptance of responsibility. *See id.* § 3E1.1(a)–(b). The district judge ruled at a pre-sentencing hearing that the livelihood adjustment should not apply, and the probation office accordingly filed a revised PSR recommending a total offense level of 31 and a combined guidelines range of 195 to 228 months in prison for both offenses.

After the initial PSR was submitted, Zanders filed a motion arguing that the government should be precluded from supporting any additions to his base offense level. He asked the court to construe purported ambiguity in the plea agreement to require that result. He argued that because of the agreement to a drug weight of no more than 3,000 kilograms, which contained the phrase “including relevant conduct,” his offense level had to be based solely on the drug weight. The district judge denied Zanders’s motion at a hearing, explaining that there was no ambiguity in the plea contract and that the provision reflected nothing more than the parties’ agreement to the relevant drug quantity.

Thereafter, Zanders—at this point representing himself—filed a motion to withdraw his plea. He alleged that he received ineffective assistance of counsel, that he was not made aware of the full consequences of his plea, and that he entered into the agreement under threat, duress, and coercion. The district judge rejected Zanders’s request, concluding first that the factual assertions in his motion were all contradicted by the representations he made during his plea colloquy, and second that he failed to provide any evidence to support his claim of ineffective assistance of counsel.

At the sentencing hearing, Zanders—once again represented by counsel—spoke on his own behalf and argued that he believed the plea agreement bound the government to a total offense level of 30. The district judge again explained that the plea agreement bound the government only to agree to a certain drug quantity and did not preclude it from arguing that other adjustments apply to Zanders’s offense level. After adopting the recommended guidelines range calculated in the revised PSR, the district judge imposed a total of 180 months’ imprisonment for both offenses.

In the *Anders* brief, counsel first tells us that although Zanders wishes to challenge the validity of his plea (and thus his appeal waiver), he lacks any nonfrivolous ground for doing so. As counsel correctly concludes, Zanders could not reasonably argue that the district judge abused her discretion in denying Zanders’s motion to withdraw his plea. *See United States v. Cross*, 962 F.3d 892, 896 (7th Cir. 2020). In support of his contention that his plea was not knowing and voluntary, Zanders

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provided only contradictions of statements that he had made under oath at the plea hearing. A defendant's assertion of his earlier perjury does not supply a valid basis for withdrawing a plea. *See United States v. Reed*, 859 F.3d 468, 471 (7th Cir. 2017). And to the extent Zanders wishes to argue that trial counsel was deficient and coerced him into taking a plea, those issues are best reserved for collateral review where an evidentiary record can be developed. *See Massaro v. United States*, 538 U.S. 500, 504–05 (2003); *United States v. McClinton*, 23 F.4th 732, 737 (7th Cir. 2022).

In opposing counsel's motion to withdraw, Zanders reprises his argument that the government breached the terms of the plea agreement by arguing for adjustments to Zanders's base offense level despite agreeing that the relevant drug weight in the "offense of conviction including relevant conduct was no more than 3,000 kilograms." Zanders contends that the "relevant conduct" language in that provision is ambiguous and should be construed to prohibit any upward guidelines adjustments to his base offense level. But, as counsel correctly concludes, Zanders's argument is frivolous because the language of the plea agreement is unambiguous: the provision straightforwardly sets forth the total drug amount for purposes of sentencing and states that the amount includes drugs associated with relevant conduct. It does not address any potential adjustments to Zanders's base offense level. The district judge properly declined to "ignore the plain language of the contract" because "there is no ambiguity." *United States v. Matchopatow*, 259 F.3d 847, 852 (7th Cir. 2001) (emphasis removed).

Finally, counsel correctly discerns that any challenge to Zanders's sentence would be fruitless because in his plea agreement he waived his right to contest "all components of [his] sentence" and "the manner in which ... [his] sentence was determined or imposed." When we decide that a defendant entered into a plea agreement knowingly and voluntarily, we enforce an appeal waiver contained in that agreement—unless the sentence exceeds the statutory maximum or the record suggests that the court relied on a constitutionally impermissible factor such as race. *See Jones v. United States*, 167 F.3d 1142, 1144 (7th Cir. 1999). Because, as counsel rightly concludes based on the record, neither of those exceptions applies, we cannot address any challenge to Zanders's sentence.

We therefore GRANT counsel's motion to withdraw and DISMISS the appeal.