

NONPRECEDENTIAL DISPOSITION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 April 4, 2025

Decided April 4, 2025

*Before*DIANE S. SYKES, *Chief Judge*CANDACE JACKSON-AKIWUMI, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 24-2178

UNITED STATES OF AMERICA,

*Plaintiff-Appellee,**v.*

DIEGO ALEJANDRO MONTES-

ROLDAN,

*Defendant-Appellant.*Appeal from the United States District
Court for the Southern District of
Illinois.

No. 4:21-CR-40071-JPG-1

J. Phil Gilbert,

*Judge.***ORDER**

Diego Montes-Roldan pleaded guilty to travel with intent to engage in illicit sexual conduct, 18 U.S.C. § 2423(b), and was sentenced to 240 months' imprisonment. Despite a broad appeal waiver in his plea agreement, Montes-Roldan filed a notice of appeal. His appointed counsel asserts that the appeal is frivolous and seeks to withdraw under *Anders v. California*, 386 U.S. 738 (1967). Counsel's brief explains the nature of the case and addresses potential issues that an appeal of this kind would typically involve. Because counsel's analysis appears thorough and Montes-Roldan did not respond to the

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motion, *see* CIR. R. 51(b), we limit our review to the subjects identified in the brief. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). We grant the motion and dismiss the appeal.

Counsel informs us that Montes-Roldan does not wish to challenge his guilty plea, so he properly refrains from discussing the voluntariness of the plea. *See United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012); *United States v. Knox*, 287 F.3d 667, 671 (7th Cir. 2002).

Counsel believes that Montes-Roldan could argue that the district judge miscalculated the guidelines range, insufficiently considered the sentencing factors under 18 U.S.C. 3553(a), and inadequately justified the above-guidelines sentence. But counsel rightly concludes that the appeal waiver would foreclose any of these challenges. In his plea agreement, Montes-Roldan waived his right “to seek modification of, or contest any aspect of, the conviction or sentence in any type of proceeding.” An appellate waiver stands or falls with the underlying plea agreement, *see, e.g., United States v. Nulf*, 978 F.3d 504, 506 (7th Cir. 2020), and Montes-Roldan does not want to challenge his plea. Additionally, as counsel points out, no exception to the appeal waiver could apply. Montes-Roldan’s sentence does not exceed the statutory maximum of 30 years, 18 U.S.C. § 2423(b), and, as the transcript shows, the court did not consider any constitutionally impermissible factors at sentencing. *See Nulf*, 978 F.3d at 506.

Therefore, we GRANT counsel’s motion to withdraw and DISMISS the appeal.