

United States Court of Appeals
For the Eighth Circuit

No. 17-1405

United States of America

Plaintiff - Appellee

v.

James Luelying Capehart, III

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota - St. Paul

Submitted: October 31, 2017

Filed: November 14, 2017

[Unpublished]

Before LOKEN, MURPHY, and SHEPHERD, Circuit Judges.

PER CURIAM.

James Luelying Capehart directly appeals the 124-month sentence the district court¹ imposed after he pleaded guilty to aggravated identity theft and conspiracy to

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

commit bank fraud, pursuant to a plea agreement that contained a waiver of the right to appeal a sentence of less than 154 months. Capehart's counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence was procedurally and substantively unreasonable.

Upon careful review, we conclude that the waiver is valid, applicable, and enforceable. See United States v. Scott, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review of 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 waiver, defendant knowingly and voluntarily entered into plea agreement and waiver, and enforcing waiver would not result in miscarriage of justice). Having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal falling outside the scope of the appeal waiver.

Accordingly, we grant counsel's motion to withdraw, and we dismiss this appeal.
