

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-4136

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES OWEN HAGINS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, Senior District Judge. (5:15-cr-00260-F-1)

Submitted: September 13, 2016 Decided: September 16, 2016

Before TRAXLER, AGEE, and THACKER, Circuit Judges.

Affirmed in part, dismissed in part by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Eric J. Brignac, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Kristine L. Fritz, Jennifer P. May-Parker, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Hagins pled guilty to distribution of child pornography, 18 U.S.C. § 2252(a)(2), (b)(1) (2012). The district court sentenced him to 235 months' imprisonment. Counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), stating that, in counsel's view, there are no meritorious issues for appeal, but questioning the reasonableness of the sentence. Although advised of his right to file a pro se supplemental brief, Hagins has not done so. The Government has filed a motion to dismiss the appeal based on the appeal waiver in Hagins' plea agreement. We affirm in part, and dismiss in part.

"A defendant may waive the right to appeal his conviction and sentence so long as the waiver is knowing and voluntary." United States v. Davis, 689 F.3d 349, 354 (4th Cir. 2012) (citing United States v. Marin, 961 F.2d 493, 496 (4th Cir. 1992)). We review the validity of an appeal waiver de novo, and we "will enforce the waiver if it is valid and the issue appealed is within the scope of the waiver." Id. at 354-55 (citing United States v. Blick, 408 F.3d 162, 168 (4th Cir. 2005)).

We have reviewed the plea agreement and the Fed. R. Crim. P. 11 hearing, and we conclude that Hagins' guilty plea and his appeal waiver were knowing and voluntary. We therefore conclude that the waiver is valid and enforceable. Hagins' challenge to the reasonableness of his sentence is foreclosed by the appellate

waiver. Accordingly, we grant the Government's motion to dismiss the appeal, in part.

In accordance with Anders, we have reviewed the record for any potentially meritorious, unwaived issues, and we have found none. We therefore affirm Hagins' conviction and dismiss the appeal as to his sentence. This court requires that counsel inform Hagins, in writing, of his right to petition the Supreme Court of the United States for further review. If Hagins requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Hagins. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED IN PART;
DISMISSED IN PART