**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 25-4445**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KJUAN SINCLAIR,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:25-cr-00004-FL-1)

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Submitted: August 20, 2026 Decided: August 24, 2026

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Before AGEE and RUSHING, Circuit Judges, and TRAXLER, Senior Circuit Judge.

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Dismissed in part and affirmed in part by unpublished per curiam opinion.

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**ON BRIEF:** Joseph M. Jennings, Morehead City, North Carolina, for Appellant. Lucy Partain Brown, Assistant United States Attorney, Katherine Simpson Englander, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kjuan Sinclair pled guilty pursuant to a plea agreement to possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924; possession with intent to distribute marijuana, in violation of 21 U.S.C. § 841(a)(1); and possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A). The district court sentenced Sinclair to 99 months' imprisonment and 3 years' supervised release. On appeal, Sinclair's counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious issues for appeal but questioning whether: Sinclair's guilty plea is valid; Sinclair's sentence is procedurally and substantively reasonable; and trial counsel rendered ineffective assistance.[*] Sinclair was informed of his right to file a pro se supplemental brief, but he has not done so. Invoking the appeal waiver in Sinclair's plea agreement, the Government moves to dismiss the appeal. We dismiss in part and affirm in part.

"We review an appellate waiver de novo to determine whether the waiver is enforceable" and "will enforce the waiver if it is valid and if the issue being appealed falls within the scope of the waiver." *United States v. Boutcher*, 998 F.3d 603, 608 (4th Cir. 2021) (internal quotation marks omitted). An appellate waiver is valid if the defendant enters it "knowingly and intelligently, a determination that we make by considering the totality of the circumstances." *Id.* Upon review of the record—including the plea

[*] Sinclair's counsel also moves for permission to withdraw as counsel. We deny this motion.

agreement and the transcript of the Fed. R. Crim. P. 11 hearing—we conclude that Sinclair knowingly and intelligently waived his right to appeal his sentence.

Sinclair's appellate waiver does not preclude our review of counsel's challenge to the validity of Sinclair's guilty plea. *See United States v. McCoy*, 895 F.3d 358, 364 (4th Cir. 2018); *United States v. Attar*, 38 F.3d 727, 732-33 & n.2 (4th Cir. 1994). Because Sinclair did not seek to withdraw his guilty plea, we review the adequacy of the Rule 11 hearing for plain error only. *United States v. Williams*, 811 F.3d 621, 622 (4th Cir. 2016); *see United States v. Sanya*, 774 F.3d 812, 815-16 (4th Cir. 2014) (discussing plain error standard). We conclude after reviewing the record that the magistrate judge did not plainly err in accepting Sinclair's guilty plea. Indeed, the magistrate judge substantially complied with Rule 11, the judge's omissions did not affect Sinclair's substantial rights, and the judge properly found that Sinclair's plea was knowing, voluntary, and supported by an independent factual basis. *See United States v. DeFusco*, 949 F.2d 114, 116, 119-20 (4th Cir. 1991) (discussing district court's obligations under Rule 11). We are thus satisfied that Sinclair's guilty plea is valid.

The ineffective assistance claims counsel raises in the *Anders* brief do not fall within the scope of the appellate waiver. To demonstrate ineffective assistance of trial counsel, Sinclair "must show that [trial] counsel's performance was deficient" and "that the deficient performance prejudiced the defense." *Strickland v. Washington*, 466 U.S. 668, 687 (1984). However, "[u]nless an attorney's ineffectiveness conclusively appears on the face of the record, [ineffective assistance] claims are not addressed on direct appeal." *United States v. Faulls*, 821 F.3d 502, 507-08 (4th Cir. 2016). Instead, such claims should

be raised, if at all, in a motion brought pursuant to 28 U.S.C. § 2255 to permit sufficient development of the record. *United States v. Baptiste*, 596 F.3d 214, 216 n.1 (4th Cir. 2010). We conclude that ineffective assistance by Sinclair's trial counsel does not conclusively appear on the face of the record before us.

Finally, in accordance with *Anders*, we have reviewed the entire record in this case and have found no potentially meritorious grounds for appeal falling outside the scope of Sinclair's valid appellate waiver or not waivable by law. We therefore grant in part the Government's motion to dismiss and dismiss the appeal as to all issues within the scope of the appellate waiver, including the sentencing challenges counsel raises in the *Anders* brief. We also deny in part the motion to dismiss and affirm the judgment as to any issue not precluded by the appellate waiver.

This court requires that counsel inform Sinclair, in writing, of the right to petition the Supreme Court of the United States for further review. If Sinclair requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Sinclair. 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.

*DISMISSED IN PART,*
*AFFIRMED IN PART*