

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2884

United States of America,

Appellee,

v.

Roy D. Murphy,

Appellant.

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* Appeal from the United States
* District Court for the
* Southern District of Iowa.
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* [UNPUBLISHED]
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Submitted: October 6, 2004

Filed: October 13, 2004

Before MURPHY, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

Roy Murphy pleaded guilty to conspiracy to manufacture and distribute at least 50 grams of methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A) and § 846. Murphy appeals the sentence imposed by the district court.¹ Murphy's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the court erred in including drugs intended for Murphy's personal use in the Guidelines calculation of offense conduct. This argument, however, falls within the scope of an appeal waiver contained in Murphy's plea

¹The Honorable Charles R. Wolle, United States District Judge for the Southern District of Iowa.

agreement, and after careful consideration of both the language of the appeal waiver and the circumstances of this case, we see no reason not to enforce the waiver. See United States v. Woods, 346 F.3d 815, 817-18 (8th Cir. 2003). Accordingly, we will not address Murphy's argument.

Having found no nonfrivolous issues after reviewing the record independently pursuant to Penon v. Ohio, 488 U.S. 75 (1988), we affirm. We also grant counsel's motion to withdraw.
