

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10262

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SPIRIT HOOKS,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Alabama
D.C. Docket No. 2:25-cr-00249-RAH-CWB-3

Before JORDAN, KIDD, and MARCUS, Circuit Judges.

PER CURIAM:

Spirit Hooks appeals his 175-month sentence for committing a Hobbs Act robbery, seeking to challenge the reasonableness of his sentence. The government, in turn, moves to dismiss the

appeal based on the sentence appeal waiver in Hooks's plea agreement. After careful review, we dismiss the appeal.

We review the validity of a sentence appeal waiver *de novo*. *United States v. Johnson*, 541 F.3d 1064, 1066 (11th Cir. 2008). We also review *de novo* whether a defendant knowingly and voluntarily waived his right to appeal his sentence. *United States v. Benitez-Zapata*, 131 F.3d 1444, 1446 (11th Cir. 1997).

A sentence appeal waiver found in a plea agreement will be enforced if it was made knowingly and voluntarily, unless doing so “would result in a miscarriage of justice.” *Hunter v. United States*, 608 U.S. ___, 146 S. Ct. 1702, 1713 (2026) (holding that a sentence-appeal waiver “is unenforceable when it would result in a miscarriage of justice”); *United States v. Bushert*, 997 F.2d 1343, 1350 (11th Cir. 1993). To establish that a sentence appeal waiver was made knowingly and voluntarily, the government must show either that: (1) the district court specifically questioned the defendant about the waiver during the plea colloquy; or (2) the record makes clear that the defendant otherwise understood the full significance of the waiver. *Bushert*, 997 F.2d at 1351; *see also* Fed. R. Crim. P. 11(b)(1)(N) (requiring that the district court inform the defendant of the terms of an appeal waiver). The touchstone for assessing whether an appeal waiver was knowing and voluntary is whether it was clearly conveyed to the defendant that he was giving up his right to appeal under most circumstances. *United States v. Boyd*, 975 F.3d 1185, 1192 (11th Cir. 2020).

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Here, the record shows that Hooks knowingly and voluntarily waived the right to appeal his sentence. His plea agreement contained this language under the heading “The Defendant’s Waiver of Appeal and Collateral Attack”:

35. Understanding that 18 U.S.C. § 3742 provides for appeal by a defendant of the sentence under certain circumstances, the defendant expressly waives any and all rights conferred by 18 U.S.C. § 3742 to appeal the conviction, sentence, or order of forfeiture. The defendant further expressly waives the right to attack the conviction or sentence in any post-conviction proceeding, including proceedings pursuant to 28 U.S.C. § 2255. Exempt from this waiver is the right to appeal or collaterally attack the conviction or sentence on the grounds of ineffective assistance of counsel or prosecutorial misconduct.

36. In return for the above waiver by the defendant, the government does not waive its right to appeal any matter related to this case, as set forth in 18 U.S.C. § 3742(b). However, if the government decides to exercise its right to appeal, the defendant is released from the appeal waiver and may pursue any appeal pursuant to 18 U.S.C. § 3742(a).

The agreement also included a provision whereby Hooks’s attorney confirmed that he advised Hooks of “the rights that the

defendant is waiving by pleading guilty.” Hooks signed the agreement.

At the change of plea hearing, a magistrate judge confirmed that Hooks had completed high school, attended two years of college, and had obtained his insurance license, and that he understood all of the documents he had received in connection with the case. Hooks told the magistrate judge that although he was suffering from PTSD, trauma, and anxiety and had not been medicated while he had been in custody, that fact did not limit his ability to comprehend the case, understand his rights, or decide how to handle the case. After finding Hooks competent to enter a plea, the magistrate judge confirmed that Hooks understood several consequences of consenting to the plea agreement and informed him that he would be giving up various rights by pleading guilty.

In particular, the magistrate judge confirmed that Hooks understood that he would “waive or give[] up [his] right to file an appeal in this case to challenge [his] conviction, sentence, or final judgment” and asked him if he understood that “there will not be an appeal that [he could] file in this case.” A moment later, the magistrate judge confirmed that Hooks understood that the “bottom line” was that he could not attempt to withdraw his plea or “challenge the outcome of this case” once his guilty plea was accepted. The magistrate judge also confirmed that Hooks understood that he could bring ineffective assistance of counsel and prosecutorial misconduct claims and that he would be able to raise any issues on appeal that he wished if the government appealed. Later

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in the colloquy, the magistrate judge again confirmed that Hooks understood that the court would not be bound to sentence him within the guideline range, the court could sentence him up to the maximum sentence allowed by law, and he could not withdraw his guilty plea if he was “unhappy with” any aspect of his sentence. Later, at the sentencing hearing, once the district court pronounced sentence, it informed Hooks that he had waived “just about all of [his] rights to file an appeal,” but had some “limited rights remaining for ineffective assistance of counsel or prosecutorial misconduct.”

In short, the record confirms that Hooks knowingly and voluntarily waived the right to appeal his sentence. *Bushert*, 997 F.2d at 1350. Further, Hooks attempts to argue on appeal that the district court imposed an unreasonable sentence, but none of the exceptions to his appeal waiver applies to this claim. Indeed, Hooks does not argue that his counsel was ineffective; Hooks does not argue that the prosecution committed misconduct; and the government has not appealed his sentence. Finally, Hooks does not argue that enforcement of the appeal waiver would result in a miscarriage of justice and his only argument on appeal -- that his sentence is unreasonable -- does not meet the high bar for establishing a miscarriage of justice. *See Hunter*, 146 S. Ct. at 1713 (explaining that the miscarriage of justice rule “sets a high bar: The waiver may be set aside only if the sentence is marred by the kind of egregious error that would bring the judicial system into disrepute. The error must be obvious -- not one a judge could reasonably make.”).

Thus, Hooks's appeal is foreclosed by the waiver and he has waived his right to raise his claim on appeal.

We grant the government's motion to dismiss the appeal.

DISMISSED.