

## **APPENDIX A**

No. 17-4163

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUITFILED  
Jul 06, 2018  
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,

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)

Plaintiff-Appellee,

)

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v.

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ORDER

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EDWARD JEWELL,

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)

Defendant-Appellant.

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Before: MOORE, GIBBONS, and McKEAGUE, Circuit Judges.

Edward Jewell appeals his judgment in a criminal case for possession with intent to distribute fentanyl. The government moves to dismiss the appeal based on an appellate-waiver provision in his plea agreement. Jewell has not responded to the motion.

A defendant may waive any right, including a constitutional right, in a plea agreement if the waiver is knowingly and voluntarily made. *United States v. Toth*, 668 F.3d 374, 377 (6th Cir. 2012). Jewell does not argue any insufficiency with his plea agreement or the plea colloquy, and a review of the colloquy shows that the district court adhered to Federal Rule of Criminal Procedure 11. Thus, Jewell's waiver of his appellate rights is valid. On appeal, Jewell only contests the district court's finding that he qualifies as a career offender. However, this argument is foreclosed on appeal as it is within the scope of his appellate waiver. If Jewell had wished to preserve this challenge on appeal, he could have bargained for it. See *United States v. Beals*, 698 F.3d 248, 255–56 (6th Cir. 2012).

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The motion to dismiss is **GRANTED**.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk