

(APPENDIX-A)

No. 19-6075

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUITFILED
Dec 11, 2020
DEBORAH S. HUNT, ClerkUNITED STATES OF AMERICA,)
)
Plaintiff-Appellee,)
)
v.)
)
CLARK D. YOUNG,)
)
Defendant-Appellant.)O R D E R

Before: SUHRHEINRICH, GILMAN, and LARSEN, Circuit Judges.

Clark D. Young appeals the sentence imposed following his guilty plea to being a felon in possession of a firearm and possession of cocaine. The government moves to dismiss the appeal based on an appellate-waiver provision in Young's plea agreement. Young has not filed a formal response to the government's motion, but he incorporates by reference arguments raised in his appellate brief, which he asserts fall outside the scope of his appellate waiver.

"[A] defendant in a criminal case may waive any right, even a constitutional right, by means of a plea agreement." *United States v. Griffin*, 854 F.3d 911, 914 (6th Cir. 2017) (quoting *United States v. Fleming*, 239 F.3d 761, 763–64 (6th Cir. 2001)). "A knowing and voluntary waiver of the right to appeal precludes appellate review." *Id.* Before accepting a guilty plea, the district court must verify the defendant's understanding of "the terms of any plea-agreement

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provision waiving the right to appeal or to collaterally attack the sentence.” Fed. R. Crim. P. 11(b)(1)(N).

Young identifies no fault in the district court’s Rule 11 colloquy and does not otherwise challenge the validity of his appellate waiver. That appellate waiver was entered without exception; although Young preserved the right to bring an ineffective-assistance claim, that exception applies to only a separate, collateral-attack waiver provision in his plea agreement. In any event, “[a]s a general rule, this Court declines to rule on claims of ineffective assistance of counsel on direct appeal.” *United States v. Detloff*, 794 F.3d 588, 594 (6th Cir. 2015). Young’s appeal, challenging the district court’s alleged contradictory pronouncement of his sentence and counsel’s failure to object to this alleged error, is therefore precluded.

The motion to dismiss is **GRANTED**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

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