

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 20-4628**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANA DUARTE-PINEDA,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (5:19-cr-00308-D-2)

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Submitted: November 30, 2021

Decided: January 5, 2022

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Before GREGORY, Chief Judge, and MOTZ and QUATTLEBAUM, Circuit Judges.

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Affirmed in part and dismissed in part by unpublished per curiam opinion.

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G. Alan DuBois, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Raleigh, North Carolina, for Appellant. Jennifer P. May-Parker, Assistant United States Attorney, Joshua L. Rogers, 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Unpublished opinions are not binding precedent in this circuit.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:

Ana Duarte-Pineda pled guilty, pursuant to a written plea agreement, to distribution of 50 grams or more of methamphetamine, and aiding and abetting, in violation of 21 U.S.C. § 841(a)(1), 18 U.S.C. § 2. Under the plea agreement, Duarte-Pineda agreed to waive her right to appeal her conviction and any sentence within the advisory Sentencing Guidelines range. The district court sentenced Duarte-Pineda to 262 months' imprisonment, the low end of the Guidelines range. Duarte-Pineda timely appealed.

Counsel for Duarte-Pineda has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious grounds for appeal but questioning whether the district court erred by failing to sentence Duarte-Pineda to the statutory mandatory minimum term of imprisonment. Duarte-Pineda filed pro se supplemental briefs challenging her conviction and sentence and asserting claims of ineffective assistance of trial counsel. The Government moves to dismiss the appeal as barred by the appellate waiver included in Duarte-Pineda's plea agreement. We affirm in part and dismiss in part.

We review the validity of an appeal waiver de novo and "will enforce the waiver if it is valid and the issue[s] appealed [are] within the scope of the waiver." *United States v. Adams*, 814 F.3d 178, 182 (4th Cir. 2016). Generally, if the district court fully questions a defendant regarding the waiver of her right to appeal during a plea colloquy performed in accordance with Fed. R. Crim. P. 11, and the record shows that the defendant understood the waiver's significance, the waiver is both valid and enforceable. *United States v. Thornsberry*, 670 F.3d 532, 537 (4th Cir. 2012). Our review of the record confirms that

Duarte-Pineda knowingly and voluntarily waived her right to appeal, and that the magistrate judge properly found that her plea was supported by an adequate factual basis. We therefore conclude that the waiver is valid.

In accordance with *Anders*, we have reviewed the entire record in this case and have found no meritorious grounds for appeal. We therefore grant the Government's motion to dismiss in part and dismiss the appeal as to all issues within the waiver's scope. We affirm the remainder of the judgment. This court requires that counsel inform Duarte-Pineda, in writing, of the right to petition the Supreme Court of the United States for further review. If Duarte-Pineda 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 Duarte-Pineda. 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.

*AFFIRMED IN PART,  
DISMISSED IN PART*