

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-14765-HH

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DEXTER DAVIS,
a.k.a. Stump,

Defendant-Appellant.

Appeals from the United States District Court
for the Middle District of Georgia

Before: WILSON, WILLIAM PRYOR and JORDAN Circuit Judges.

BY THE COURT:

The Government's motion to dismiss this appeal pursuant to the appeal waiver in Appellant's plea agreement is GRANTED. *See United States v. Bushert*, 997 F.2d 1343, 1350-51 (11th Cir. 1993) (sentence appeal waiver will be enforced if it was made knowingly and voluntarily); *United States v. Grinard-Henry*, 399 F.3d 1294, 1296 (11th Cir. 2005) (waiver of the right to appeal includes waiver of the right to appeal difficult or debatable legal issues or even blatant error).

JORDAN, Circuit Judge, concurring:

There is an ambiguity in Mr. Davis' appeal waiver because it is unclear who is the arbiter concerning the applicable "advisory guideline range." Here, however, the ambiguity does not help Mr. Davis because even under his theory, the guideline range was 151-188 months, and he received a sentence of 144 months. In other words, Mr. Davis did not receive a sentence that "exceeds the advisory guidelines range," no matter how that range is calculated.