

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 12-4101**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE PINEDA-GOMEZ,

Defendant - Appellant.

---

Appeal from the United States District Court for the District of South Carolina, at Charleston. Richard M. Gergel, District Judge. (2:10-cr-01104-RMG-7)

---

Submitted: November 20, 2012

Decided: December 6, 2012

---

Before AGEE, DAVIS, and FLOYD, Circuit Judges.

---

Dismissed in part; affirmed in part by unpublished per curiam opinion.

---

Robert Snead, Greenville, South Carolina; Janis Richardson Hall, Greenville, South Carolina, for Appellant. William Norman Nettles, United States Attorney, Columbia, South Carolina; Peter T. Phillips, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, South Carolina, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jose Pineda-Gomez pled guilty pursuant to a written plea agreement to conspiracy to distribute five kilograms or more of cocaine, money laundering and possession of a firearm by an illegal alien. On appeal, counsel for Pineda-Gomez has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that there are no meritorious issues for appeal but questioning whether Pineda-Gomez's conviction for possession of a firearm by an illegal alien in his home violates the Second Amendment of the United States Constitution. The Government asserts that the appeal should be dismissed as barred by Pineda-Gomez's waiver of the right to appeal included in the plea agreement. Pineda-Gomez was advised of his right to file a pro se supplemental brief, but has not done so.

Upon review of the plea agreement and the transcript of the hearing pursuant to Fed. R. Crim. P. 11, we conclude that Pineda-Gomez knowingly and intelligently waived his right to appeal his conviction and sentence. Accordingly, because the waiver of appeal is valid and the Government now seeks to enforce it, we dismiss Pineda-Gomez's appeal as to his Second Amendment challenge to his conviction of possession of a firearm by an illegal alien, as it is within the scope of the waiver. We have reviewed the entire record in accordance with Anders and have discerned no meritorious issues for appeal outside the

scope of the waiver. We therefore affirm the district court's judgment as to all issues not encompassed by Pineda-Gomez's valid waiver of appellate rights.

This court requires that counsel inform Pineda-Gomez, in writing, of the right to petition the Supreme Court of the United States for further review. If Pineda-Gomez 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 Pineda-Gomez. Finally, 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.

DISMISSED IN PART;  
AFFIRMED IN PART