

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-4243

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEVIN ALEXANDER SORIANA-HERNANDEZ, a/k/a Brocha,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Paula Xinis, District Judge. (8:17-cr-00382-PX-9)

Submitted: October 17, 2019

Decided: October 21, 2019

Before MOTZ and QUATTLEBAUM, Circuit Judges, and HAMILTON, Senior Circuit
Judge.

Dismissed in part, affirmed in part by unpublished per curiam opinion.

Julie Marie Reamy, JULIE M. REAMY, ATTORNEY AT LAW, LLC, Baltimore,
Maryland, for Appellant. William Moomau, Assistant United States Attorney, OFFICE
OF THE UNITED STATES ATTORNEY, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kevin Alexander Soriana-Hernandez appeals his conviction and 312-month sentence imposed following his guilty plea to conspiracy to participate in a racketeering enterprise, in violation of 18 U.S.C. § 1962(d) (2012). On appeal, Soriana-Hernandez's counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious issues but questioning whether Soriana-Hernandez's sentence is substantively unreasonable. Soriana-Hernandez was advised of his right to file a pro se supplemental brief but has not done so. The Government moves to dismiss the appeal pursuant to the appeal waiver in Soriana-Hernandez's plea agreement. We dismiss in part and affirm in part.

We review de novo the validity of an appeal waiver. *United States v. Copeland*, 707 F.3d 522, 528 (4th Cir. 2013). A waiver will preclude appeal of a specific issue if the waiver is valid and the issue falls within the waiver's scope. *United States v. Archie*, 771 F.3d 217, 221 (4th Cir. 2014). We will uphold an appeal waiver as valid "so long as the waiver is knowing and voluntary." *Copeland*, 707 F.3d at 528 (internal quotation marks omitted). In conducting this inquiry, "we examine the totality of the circumstances, including the experience and conduct of the accused, as well as the accused's educational background and familiarity with the terms of the plea agreement." *United States v. Thornsbury*, 670 F.3d 532, 537 (4th Cir. 2012) (internal quotation marks omitted). "Generally though, if a district court questions a defendant regarding the waiver of appellate rights during the [Fed. R. Crim. P.] 11 colloquy and the record indicates that the

defendant understood the full significance of the waiver, the waiver is valid.” *United States v. McCoy*, 895 F.3d 358, 362 (4th Cir.) (internal quotation marks omitted), *cert. denied*, 139 S. Ct. 494 (2018).

Our independent review of the record confirms that Soriana-Hernandez knowingly and voluntarily waived his right to appeal his conviction and whatever sentence was imposed on any ground, with limited exceptions not applicable here. Thus, we conclude the waiver is valid and enforceable. Further, the issue counsel raises pursuant to *Anders* falls squarely within the broad compass of the waiver.

In accordance with *Anders*, we have reviewed the entire record in this case and have found no potentially meritorious issues for appeal that would fall outside the scope of Soriana-Hernandez’s valid appeal waiver. *See McCoy*, 895 F.3d at 363-64 (discussing issues that cannot be waived); *United States v. Cohen*, 888 F.3d 667, 683 (4th Cir. 2018) (same). We therefore grant the Government’s motion to dismiss in part and dismiss the appeal as to all issues within the scope of the waiver. To the extent there exist any claims not foreclosed by the waiver, we deny the motion to dismiss in relevant part and affirm the district court’s judgment. This court requires that counsel inform Soriana-Hernandez, in writing, of the right to petition the Supreme Court of the United States for further review. If Soriana-Hernandez 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 Soriana-Hernandez. 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*