

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 21-4568**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARK DANIEL BENAVIDEZ, a/k/a Droopy,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at  
Raleigh. W. Earl Britt, Senior District Judge. (5:19-cr-00337-BR-1)

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Submitted: May 15, 2023

Decided: May 26, 2023

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Before AGEE, DIAZ, and RICHARDSON, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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**ON BRIEF:** G. Alan DuBois, Federal Public Defender, Eric Joseph Brignac, Chief  
Appellant Attorney, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Raleigh, North  
Carolina, for Appellant. David A. Bragdon, 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Unpublished opinions are not binding precedent in this circuit.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:

Mark Daniel Benavidez seeks to appeal his Guidelines range sentence after pleading guilty to transporting a person in interstate commerce to engage in prostitution, in violation of 18 U.S.C. § 2421(a). On appeal, Benavidez’s attorney has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), raising two sentencing issues but concluding that there are no meritorious grounds for appeal. The Government has moved to dismiss the appeal as barred by Benavidez’s appeal waiver. Benavidez was notified of his right to file a pro se supplemental brief but has not done so. We dismiss the appeal.

“When the government seeks to enforce an appeal waiver and has not breached the plea agreement, we will enforce the waiver if it is valid and if the issue being appealed falls within the scope of the waiver.” *United States v. Boutcher*, 998 F.3d 603, 608 (4th Cir. 2021) (internal quotation marks omitted). “A ‘valid’ appeal waiver is one entered by the defendant knowingly and intelligently, a determination that we make by considering the totality of the circumstances.” *Id.* “When a district court questions a defendant during a Rule 11 hearing regarding an appeal waiver and the record shows that the defendant understood the import of his concessions, we generally will hold that the waiver is valid.” *Id.* We review this issue de novo. *Id.*

Upon our review of the record, we conclude Benavidez knowingly and voluntarily waived his right to appeal his conviction and sentence, and the issues raised on appeal fall within the scope of the waiver. Moreover, we have reviewed the record for any potentially meritorious issues that might fall outside the waiver and have found none.

Accordingly, we grant the Government's motion to dismiss the appeal. This court requires that counsel inform Benavidez, in writing, of his right to petition the Supreme Court of the United States for further review. If Benavidez 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 Benavidez. 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*