

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

December 21, 2012

Lyle W. Cayce
Clerk

No. 12-50029

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ESEQUIEL HERNANDEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:02-CR-1114-1

Before JONES, DENNIS, and HAYNES, Circuit Judges.

PER CURIAM:*

Esequiel Hernandez appeals the reasonableness of the sentence imposed following his guilty plea to conspiracy to possess with intent to distribute marijuana. The Government has invoked the appellate waiver provision contained in his written plea agreement. *See United States v. Acquaye*, 452 F.3d 380, 381-82 (5th Cir. 2006). Our review of the record reveals that the waiver was knowing and voluntary and that under the plain language of the plea agreement, it applies to the circumstances at issue. *See United States v. Bond*,

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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414 F.3d 542, 544 (5th Cir. 2005). Consequently, the waiver bars the instant appeal.

AFFIRMED.