

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

United States Court of Appeals
Fifth Circuit

FILED

November 17, 2017

Lyle W. Cayce
Clerk

No. 17-60036
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

v.

JUAN GERALDO ARREDONDO, also known as Bobby,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:13-CR-13-4

Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:*

Juan Geraldo Arredondo appeals from his judgment of conviction and sentence following his guilty plea to participating or assisting in a riot at a federal prison. Arredondo challenges the district court's guidelines sentence range calculation, arguing that there was insufficient reliable evidence to support an increase in his base offense level. The Government moves to dismiss the appeal or, alternatively, for summary affirmance based on the appeal waiver in Arredondo's plea agreement.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 17-60036

We review de novo whether an appeal waiver bars an appeal. *United States v. Keele*, 755 F.3d 752, 754 (5th Cir. 2014). Here, we conclude that the waiver was knowing and voluntary as the record shows that Arredondo knew he had the right to appeal and that he was giving up that right by entering into the plea agreement. See *United States v. Higgins*, 739 F.3d 733, 736 (5th Cir. 2014). Arredondo's argument that the appeal waiver should not be enforced because of an alleged violation of Federal Rule of Criminal Procedure 11(b)(1)(N) is unavailing. See *id.* at 736-37; *United States v. Alvarado-Casas*, 715 F.3d 945, 955 (5th Cir. 2013). Also, although Arredondo suggests that we should adopt a miscarriage of justice exception to the enforcement of an appeal waiver, we have previously declined to do so. *United States v. De Cay*, 359 F. App'x 514, 516 (5th Cir. 2010) (per curiam).

Accordingly, we GRANT the Government's motion to dismiss and DENY the alternative motion for summary affirmance.

APPEAL DISMISSED.