

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted October 21, 2009

Decided October 21, 2009

Before

RICHARD A. POSNER, *Circuit Judge*

JOEL M. FLAUM, *Circuit Judge*

KENNETH F. RIPPLE, *Circuit Judge*

No. 08-4145

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

SERGIO NAVARRETE,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of Illinois,
Eastern Division.

No. 07 CR 658-2

George W. Lindberg,
Judge.

ORDER

Sergio Navarrete pleaded guilty to conspiring to possess more than five kilograms of cocaine with intent to distribute, *see* 21 U.S.C. §§ 846, 841(a)(1), and the district court sentenced him to 151 months' imprisonment. In his plea agreement he promised to forgo any appeal of his conviction or sentence. Navarrete filed a notice of appeal, but his appointed lawyers move to withdraw because they cannot identify any nonfrivolous argument to pursue. *See Anders v. California*, 386 U.S. 738 (1967). Navarrete did not respond to counsel's submission. *See* CIR. R. 51(b). Our review is limited to the potential issues identified in counsel's facially adequate brief. *United States v. Cano-Rodriguez*, 552 F.3d 637, 638 (7th Cir. 2009); *United States v. Schuh*, 289 F.3d 968, 973-74 (7th Cir. 2002).

Counsel begin by telling us that Navarrete does not wish to challenge his guilty plea. Counsel thus properly refrain from discussing the adequacy of the plea colloquy or the voluntariness of the plea. See *United States v. Knox*, 287 F.3d 667, 671-72 (7th Cir. 2002).

Counsel next consider whether Navarrete has any other basis on which to challenge his sentence. But the appeal waiver forecloses any argument challenging his sentence except a claim that the district court relied on a constitutionally impermissible factor at sentencing or that the sentence exceeds the statutory maximum. See *United States v. Lockwood*, 416 F.3d 604, 608 (7th Cir. 2005); *United States v. Bownes*, 405 F.3d 634, 637 (7th Cir. 2005). Neither of these issues applies here. Navarrete's appeal waiver stands with his unchallenged guilty plea, *United States v. Cole*, 569 F.3d 774, 776 (7th Cir. 2009); *United States v. Wilson*, 481 F.3d 475, 483 (7th Cir. 2007), and any challenge to his sentence would be frivolous.

Accordingly, we GRANT counsel's motion to withdraw and DISMISS the appeal.