

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

United States Court of Appeals
Fifth Circuit

FILED

April 17, 2012

Lyle W. Cayce
Clerk

No. 11-40752
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JESUS DE LA TORRE-MOLINA,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:10-CR-165-1

Before JONES, Chief Judge, and JOLLY and SMITH, Circuit Judges.

PER CURIAM:*

Jesus De La Torre-Molina (De La Torre) appeals the sentence imposed following his illegal reentry conviction. He argues that the district court committed procedural error when it determined that it lacked the authority to run De La Torre's illegal reentry sentence concurrently with a previously imposed sentence following the revocation of his supervised release. The Government has moved for summary affirmance or, alternatively, for dismissal of the appeal or an extension of time to file a brief, contending that De La Torre's

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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appeal is barred by his appellate waiver. De La Torre does not contest the validity or enforceability of the appeal waiver.

The plain language of the plea agreement confirms that the waiver applies to the issue at hand, and our review of the arraignment proceedings confirms that the appeal waiver was knowing and voluntary. *See United States v. Bond*, 414 F.3d 542, 544 (5th Cir. 2005). De La Torre's valid appeal waiver thus bars the instant appeal. *See United States v. McKinney*, 406 F.3d 744, 746 (5th Cir. 2005). The Government's motion for summary affirmance is GRANTED, the Government's alternative motions for dismissal of the appeal and an extension of time to file a brief are DENIED, and the judgment of the district court is AFFIRMED.