

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 19, 2008

No. 07-40183
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

NICOLAS BUCKETT

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 2:06-CR-8-2

Before GARZA, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Nicolas Buckett, proceeding pro se, appeals the 135-month sentence imposed following his guilty-plea conviction for conspiracy to possess with the intent to distribute more than 500 grams of methamphetamine, in violation of 21 U.S.C. § 846. He argues, for the first time on appeal, that his sentence is error because he should have received a safety-valve reduction, pursuant to U.S.S.G. § 5C1.2. The Government moves for summary affirmance or dismissal, urging that the appeal is barred by the waiver-of-appeal provision of Buckett'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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

plea agreement. Alternatively, the Government seeks an extension of time to file a merits brief.

Our review of the record shows that Buckett's appeal waiver was knowing and voluntary and that, under the plain language of the plea agreement, the waiver applies to the circumstances at hand. See *United States v. Burns*, 433 F.3d 442, 445-46 (5th Cir. 2005); *United States v. McKinney*, 406 F.3d 744, 746 (5th Cir. 2005). Accordingly, Buckett's appeal waiver bars review of the issue he seeks to raise on appeal.

The judgment of the district court is AFFIRMED, the Government's motion for summary affirmance is GRANTED, and the Government's motions for dismissal or an extension of time are DENIED.