

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 11, 2007

No. 07-50653
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

RUBEN NINO-GUERRERO

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:06-CR-598-ALL

Before REAVLEY, BARKSDALE, and GARZA, Circuit Judges.

PER CURIAM:*

Ruben Nino-Guerrero (Nino) appeals the 57-month sentence he received following his guilty-plea conviction for illegal reentry in violation of 8 U.S.C. § 1326. For the first time on appeal, he argues that the 16-level enhancement he received, pursuant to U.S.S.G. § 2L1.2(b), for having been deported following a prior aggravated felony conviction was error.

The instant appeal is barred by the waiver-of-appeal provision in Nino's plea agreement, which waiver was knowing and voluntary and is enforceable.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

See *United States v. Melancon*, 972 F.2d 566, 567-68 (5th Cir. 1992); FED. R. CRIM. P. 11(b)(1)(N). The Government seeks to enforce the waiver, and Nino has abandoned any challenge to the validity of his plea or the waiver provision by failing to brief it. See *United States v. Story*, 439 F.3d 226, 231 (5th Cir. 2006); see also *United States v. Green*, 964 F.2d 365, 371 (5th Cir. 1992). Accordingly, the district court's judgment is AFFIRMED.