Case: 12-50029 Document: 00512092342 Page: 1 Date Filed: 12/21/2012

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT United States Cou

United States Court of Appeals Fifth Circuit

FILED

December 21, 2012

No. 12-50029 Summary Calendar

Lyle W. Cayce Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ESEQUIEL HERNANDEZ,

Defendant-Appellant

Appeal from the United States District Court for the Western District of Texas USDC No. 3:02-CR-1114-1

Before JONES, DENNIS, and HAYNES, Circuit Judges. PER CURIAM:*

Esequiel Hernandez appeals the reasonableness of the sentence imposed following his guilty plea to conspiracy to posses with intent to distribute marijuana. The Government has invoked the appellate waiver provision contained in his written plea agreement. See United States v. Acquaye, 452 F.3d 380, 381-82 (5th Cir. 2006). Our review of the record reveals that the waiver was knowing and voluntary and that under the plain language of the plea agreement, it applies to the circumstances at issue. See United States v. Bond,

 $^{^{*}}$ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 12-50029

414 F.3d 542, 544 (5th Cir. 2005). Consequently, the waiver bars the instant appeal.

AFFIRMED.