

March 1, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-10186
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ALBERTO JOHNSON-RAMIREZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:04-CR-15-ALL

Before DeMOSS, STEWART, and PRADO, Circuit Judges.

PER CURIAM:*

Jose Alberto Johnson-Ramirez appeals from the sentence imposed pursuant to his guilty-plea conviction for transportation of illegal aliens and aiding and abetting. Johnson-Ramirez argues that he should not have received an adjustment for obstruction of justice and he should have received an adjustment for acceptance of responsibility.

The Government moves for dismissal of this appeal because, as part of his plea agreement, Johnson-Ramirez waived his right to appeal his conviction and sentence except on grounds that the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentence exceeded the statutory maximum punishment or that his counsel rendered ineffective assistance. Johnson-Ramirez's arguments do not rest upon either of these exceptions to his waiver. Johnson-Ramirez did not respond to the Government's motion and did not challenge the validity of his guilty plea or the appeal-waiver provision.

There is nothing in the record on appeal to suggest that Johnson-Ramirez did not knowingly and voluntarily waived his right to appeal his sentence. Accordingly, Johnson-Ramirez's appeal is barred by the waiver contained in the plea agreement. See United States v. Portillo, 18 F.3d 290, 292-93 (5th Cir. 1994). The Government's motion to summarily affirm is granted. The Government's motion to dismiss or alternatively for an extension of time is denied as unnecessary.

AFFIRMED; MOTION TO SUMMARILY AFFIRM GRANTED; MOTION TO DISMISS OR ALTERNATIVELY FOR AN EXTENSION OF TIME DENIED.