

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

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No. 12-50824  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 10, 2014

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JULIO RODRIGUEZ,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:11-CR-2114

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Before REAVLEY, JONES, and PRADO, Circuit Judges.

PER CURIAM:\*

Julio Rodriguez appeals the sentence imposed following his guilty plea to possession with intent to distribute more than 500 grams of cocaine. He was sentenced to 60 months of imprisonment, the mandatory minimum sentence, and five years of supervised release. Rodriguez contends that he was entitled to a downward departure, pursuant to U.S.S.G. § 5H1.4, based on his alcohol abuse, and that the district court mistakenly believed that it could not depart

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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on that basis. The Government responds that his claims of error are barred by his appeal waiver.

Rodriguez does not acknowledge the existence of the appeal waiver much less challenge its validity on appeal. A review of the record indicates that he knowingly and voluntarily waived his right to appeal his sentence, *see United States v. Portillo*, 18 F.3d 290, 292 (5th Cir. 1994), and that his claims of error regarding his sentence are barred by the appeal waiver.

Accordingly, the appeal is DISMISSED. Counsel is WARNED that the filing of an appeal contrary to a valid appeal waiver is a needless waste of resources and could result in sanctions. *See United States v. Gaitan*, 171 F.3d 222, 224 (5th Cir. 1999).