

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

United States Court of Appeals
Fifth Circuit

FILED

September 20, 2018

Lyle W. Cayce
Clerk

No. 17-41280
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CHRISTOPHER WADE FERRELL,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:16-CR-96-1

Before KING, SOUTHWICK, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Christopher Wade Ferrell appeals the within-guidelines sentence of 327 months of imprisonment he received after he pleaded guilty, pursuant to a plea agreement, to conspiracy to possess with intent to distribute 50 grams or more of methamphetamine. He argues that the district court erred in applying certain guideline enhancements.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 17-41280

The Government moves to dismiss the appeal based upon the appeal waiver in the plea agreement or, alternatively, for an extension of time to file a brief. Ferrell's opening brief acknowledges the waiver, but he has not filed a response to the Government's motion.

We review de novo whether an appeal waiver bars an appeal. *United States v. Keele*, 755 F.3d 752, 754 (5th Cir. 2014). The record shows that the waiver was knowing and voluntary. *See id.* at 754-55. Moreover, none of the exceptions to the waiver apply here. *See id.* at 754.

Accordingly, we GRANT the Government's motion to dismiss based on the appeal waiver and DENY the alternative motion for an extension of time to file a brief. Ferrell's counsel is CAUTIONED that pursuing an appeal contrary to a valid waiver and without responding to the Government's invocation of the waiver is a needless waste of judicial resources and could result in sanctions. *See United States v. Gaitan*, 171 F.3d 222, 223-24 (5th Cir. 1999).

APPEAL DISMISSED.