

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

No. 18-60114
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
September 20, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

COSME PIMENTAL-ARMENTA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:17-CR-104-1

Before SMITH, WIENER, and WILLETT, Circuit Judges.

PER CURIAM:*

Cosme Pimental-Arenta appeals the 21-month sentence imposed following his guilty plea conviction for being unlawfully present in the U.S. following removal or deportation after a conviction of an aggravated felony. The Government moves to dismiss the appeal or, alternatively, for summary affirmance based on the appeal waiver in Pimental-Arenta's plea agreement.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Pimental-Arenta's opening brief did not address the waiver and he has not responded to the Government's argument.

We review de novo whether an appeal waiver bars an appeal. *United States v. Keele*, 755 F.3d 752, 754 (5th Cir. 2014). Pimental-Arenta's waiver was knowing and voluntary as the record shows that he knew he had the right to appeal and that he was giving up that right by entering the plea agreement. *See United States v. Higgins*, 739 F.3d 733, 736 (5th Cir. 2014). Also, the waiver plainly applies to his challenge to his sentence. *See id.* Accordingly, we GRANT the Government's motion to dismiss and DENY the alternative motion for summary affirmance. Counsel for Pimental-Arenta 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.