

United States Court of Appeals  
for the Fifth Circuit

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No. 22-60553  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 13, 2023

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

DANIEL RAY METSINGER,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 3:21-CR-77-1

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Before KING, HAYNES, and GRAVES, *Circuit Judges.*

PER CURIAM:\*

Daniel Ray Metsinger pleaded guilty to failure to register as a sex offender. Metsinger appeals, challenging four supervised release conditions. In response, the Government has filed a motion to dismiss Metsinger's appeal based on the appellate waiver in his plea agreement and, alternatively, for summary affirmance.

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Metsinger concedes that his appellate waiver, if enforceable, would bar this appeal. However, Metsinger argues that the appellate waiver is unenforceable because the Government breached the plea agreement by recommending a supervised release condition not found within the Sentencing Guidelines.

We review appeal waivers de novo. *See United States v. Jacobs*, 635 F.3d 778, 780-81 (5th Cir. 2011). “[S]ummary disposition is proper” when “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case, or where, as is more frequently the case, the appeal is frivolous.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Dismissal is the appropriate remedy for enforcement of an appellate waiver. *See United States v. Story*, 439 F.3d 226, 230-31 & n.5 (5th Cir. 2006). “This court applies general principles of contract law in interpreting the terms of a plea agreement.” *United States v. Long*, 722 F.3d 257, 262 (5th Cir. 2013). We thus analyze the plain language of the plea agreement on its face. *Id.*

Metsinger’s plea agreement did not prohibit the Government from recommending supervised release conditions beyond those set forth in the Guidelines. He has, therefore, failed to demonstrate a breach, and his appellate waiver is enforceable.

The Government’s motion to dismiss is therefore GRANTED and the appeal is DISMISSED. The alternative motion for summary affirmance is DENIED.