

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20241
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PEDRO RIVERA, JR.,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR-H-93-0211-01
- - - - -

August 23, 1995

Before KING, JOLLY, and WIENER, Circuit Judges.

PER CURIAM:*

"[A] defendant may, as part of a valid plea agreement, waive his statutory right to appeal his sentence." United States v. Melancon, 972 F.2d 566, 568 (5th Cir. 1992). When the record clearly shows that the defendant has read and understood the plea agreement, and that he raises no question regarding a waiver-of-appeal provision, the plea agreement must be upheld. United

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

States v. Portillo, 18 F.3d 290, 292 (5th Cir.), cert. denied, 115 S. Ct. 244 (1994).

Rivera stated to the district court that he had reviewed the plea agreement and that he understood its terms and conditions. Rivera asserted specifically that he understood the waiver-of-appeal provision by affirmatively answering the district court's question, "Do you also understand, sir, that in your plea agreement you are waiving the right to appeal the sentence or the manner in which it was determined unless I impose a heavier sentence than the probation officer recommends?" Rivera further confirmed that he discussed the plea agreement with his counsel in Spanish. Rivera then signed the agreement in open court and indicated to the court that the matters contained within the agreement were true.

The record is clear that Rivera read and understood his plea agreement. See Portillo, 18 F.3d at 293. Further, Rivera raised no question regarding the waiver-of-appeal provision. See id. Rivera's sentence did not exceed the statutory maximum sentence. Rivera waived his right to appeal his sentence.

APPEAL DISMISSED.