

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-11145

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

EULALIO VARGAS-BUENO

Defendant - Appellant

Appeal from the United States District Court
for the Northern District of Texas, San Angelo
USDC No. 6:99-CR-21-1-C

August 9, 2000

Before KING, Chief Judge, REYNALDO G. GARZA and PARKER, Circuit
Judges.

PER CURIAM:*

The Defendant-Appellant Eulalio Vargas-Bueno waived his right to appeal the issues that he presents here. A defendant may, as a part of a valid plea agreement, waive his statutory right to appeal his sentence. See United States v Melancon, 972 F.2d 566, 568 (5th Cir. 1992). To be valid, the waiver must be an informed one. See id. at 567. Contrary to Vargas' argument on appeal, a district court's misstatements at a sentencing hearing as to a defendant's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

right to appeal, made after the defendant entered into a plea agreement, do not affect the voluntariness of a waiver of appeal provision. See id. at 568. When the record clearly shows that the defendant read and understood the plea agreement and that he raised no question regarding the waiver of appeal provision, the plea agreement is upheld. See United States v Portillo, 18 F.3d 290, 292-93 (5th Cir. 1994). This case differs from United States v Robinson, 187 F.3d 516 (5th Cir. 1999), in that in this case, unlike in Robinson, the district court determined through its questioning that Vargas-Bueno had read and understood the plea agreement.¹

All outstanding motions are DENIED.

DISMISSED.

¹ We note that the plea agreement at issue here predates the amendment to Federal Rule of Criminal Procedure 11 that became effective December 1, 1999.