

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 26, 2021

Lyle W. Cayce
Clerk

No. 20-50845
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MANUEL DE JESUS TORRES PONCE,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:18-CR-758-4

Before DAVIS, STEWART, and HO, *Circuit Judges.*

PER CURIAM:*

Manuel De Jesus Torres Ponce appeals the 87-month sentence imposed following his guilty plea for conspiring to import five kilograms or more of cocaine. The Government requests that the appeal be dismissed pursuant to the appeal waiver in Torres Ponce's plea agreement. Torres

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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Ponce's opening brief did not address the waiver, and he has not filed a reply brief responding 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). Torres Ponce'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.* Counsel for Torres Ponce 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).

The appeal is DISMISSED.