

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10307
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILSON ROBERT MERO-CASTRO,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Alabama
D.C. Docket No. 1:25-cr-00071-TFM-B-5

Before JORDAN, KIDD, and BLACK, Circuit Judges.

PER CURIAM:

Wilson Robert Mero-Castro appeals his 108-month sentence for conspiracy to distribute cocaine on board a vessel subject to the jurisdiction of the United States. He contends the district court

plainly erred when it failed to inquire about the timing of his presentence investigation report's (PSI) disclosure ahead of sentencing and when it failed to ask whether he had read and discussed the PSI with his attorney before sentencing. Mero-Castro also notes the district court made a clerical error in its written judgment. In turn, the Government asserts that Mero-Castro's challenges regarding his sentencing are barred by his appeal waiver, but agrees that the district court made a clerical error in the judgment.

A sentence appeal waiver will be enforced if it was made knowingly and voluntarily. *United States v. Bushert*, 997 F.2d 1343, 1351 (11th Cir. 1993). To establish the waiver was made knowingly and voluntarily, the government must show either that (1) the district court specifically questioned the defendant about the waiver during the plea colloquy or (2) the record makes clear that the defendant otherwise understood the full significance of the waiver. *Id.* The touchstone for assessing whether an appeal waiver was knowing and voluntary is whether it was clearly conveyed to the defendant that he was giving up his right to appeal under most circumstances. *United States v. Boyd*, 975 F.3d 1185, 1192 (11th Cir. 2020). If valid, "[a]n appeal waiver includes the waiver of the right to appeal difficult or debatable legal issues or even blatant error." *United States v. Grinard-Henry*, 399 F.3d 1294, 1296 (11th Cir. 2005).

The valid appeal waiver in Mero-Castro's plea agreement bars his challenge to his sentence. See *United States v. Johnson*, 541 F.3d 1064, 1066 (11th Cir. 2008) ("We review the validity of a sentence appeal waiver de novo."). The district court ensured that

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Mero-Castro knowingly and voluntarily agreed to the appeal waiver. *See Bushert*, 997 F.2d at 1351. The district court discussed the appeal waiver in Mero-Castro's plea agreement, and Mero-Castro confirmed that he understood he was waiving his right to appeal subject to certain exceptions. Because the district court questioned Mero-Castro about the appeal waiver during the plea colloquy and he confirmed that he understood it, he knowingly and voluntarily waived his appeal rights. *Id.*

Additionally, none of the exceptions in the appeal waiver apply because Mero-Castro has not challenged his sentence as exceeding the statutory maximum or his advisory Guidelines range, nor has he alleged ineffective assistance of counsel. Therefore, the appeal waiver bars Mero-Castro's challenge to his sentencing.¹ Accordingly, this appeal is dismissed in part.

However, we remand in part to the district court for the limited purpose of correcting a clerical error in the judgment. Specifically, the district court should ensure the box reflecting the dismissal of Count Two is checked in its written judgment.

DISMISSED IN PART and REMANDED IN PART.

¹ The Supreme Court's recent holding in *Hunter v. United States*, 146 S. Ct. 1702, 1713 (2026), does not alter this conclusion. That case allows a valid appeal waiver to be set aside only if a "miscarriage of justice" would result if the waiver was enforced, which occurs "only if the sentence is marred by the kind of egregious error that would bring the judicial system into disrepute." *Id.*