

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10470
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

REY DAVID GABRIEL-ZAMORANO,

a.k.a. Rey David Gabriel Zamorano,

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-6

Before JORDAN, KIDD, and BLACK, Circuit Judges.

PER CURIAM:

Rey David Gabriel-Zamorano 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 erred by failing to meaningfully consider his request for a minor-role reduction and his mitigating evidence. He also asserts his sentence is substantively unreasonable because the district court improperly weighed the 18 U.S.C. § 3553(a) sentencing factors. In turn, the Government asserts that his appeal is barred by an appeal waiver.

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 Gabriel-Zamorano’s plea agreement bars his challenges 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 Gabriel-Zamorano knowingly and voluntarily agreed to the appeal

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waiver. *See Bushert*, 997 F.2d at 1351. The district court discussed the appeal waiver in Gabriel-Zamorano’s plea agreement, and Gabriel-Zamorano confirmed that he understood he was waiving his right to appeal subject to certain exceptions. Because the district court questioned Gabriel-Zamorano 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 Gabriel-Zamorano 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 Gabriel-Zamorano’s challenges to his sentence.¹ Accordingly, this appeal is dismissed.

DISMISSED.

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.*