

MAR 02 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN DANIEL ROJAS-PEREZ,

Defendant - Appellant.

No. 09-10141

D.C. No. 2:07-CR-01388-FJM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frederick J. Martone, District Judge, Presiding

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Juan Daniel Rojas-Perez appeals from the 46-month sentence imposed following his guilty-plea conviction for conspiracy to harbor illegal aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(iii), (a)(1)(A)(v)(I); and re-entry after

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

deportation, in violation of 8 U.S.C. § 1326(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Rojas-Perez contends that the appeal waiver in his plea agreement does not preclude this appeal because his sentence is not consistent with his plea agreement. Because the record belies this contention, we enforce the valid appeal waiver. *See United States v. Bibler*, 495 F.3d 621, 624 (9th Cir. 2007); *see also United States v. Schuman*, 127 F.3d 815, 817 (9th Cir. 1997) (per curiam).

AFFIRMED.