

APR 21 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERTO CARRILLO-BASTIDA,

Defendant - Appellant.

No. 09-10008

D.C. No. 4:07-CR-00325-DCB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
David C. Bury, District Judge, Presiding

Submitted April 5, 2010\*\*

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Roberto Carrillo-Bastida appeals from the 87-month sentence imposed following his guilty-plea conviction for illegal re-entry after deportation, in

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\* 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).

violation of 8 U.S.C. § 1326. We dismiss in light of Carrillo-Bastida's valid written waiver of his right to appeal.

Carrillo-Bastida contends that the waiver of his right to appeal was not knowing and voluntary. But the record reflects that it was. *See United States v. Jeronimo*, 398 F.3d 1149, 1154 (9th Cir. 2005) (“We follow the rule that a waiver of the right to appeal is knowing and voluntary where the plea agreement as a whole was knowingly and voluntarily made.”); *see also United States v. Hernandez*, 251 F.3d 1247, 1251 (9th Cir. 2001) (“In the absence of a formally enacted rule, a district court judge may regulate practice in any manner consistent with federal law, Federal Rules of Criminal Procedure, and local rules of the district.”) (internal quotation marks and brackets omitted); *United States v. Garrett*, 179 F.3d 1143, 1144-45 (9th Cir. 1999) (en banc) (denial of motion for continuance reviewed for abuse of discretion).

Further, our review of the record indicates that, at the sentencing hearing, the district court did not mischaracterize its authority to depart from the Guidelines.

We decline to consider arguments raised by Carrillo-Bastida for the first time in his reply brief. *See United States v. Anderson*, 472 F.3d 662, 668 (9th Cir. 2006).

**DISMISSED.**