

OCT 28 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NOT FOR PUBLICATION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.

JORGE AGUILAR-VALLEJO,

Defendant - Appellant.

No. 09-10518

D.C. No. 5:08-cr-00870-JW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
James Ware, District Judge, Presiding

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Jorge Aguilar-Vallejo appeals from the district court's denial of his motion to dismiss the indictment. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we dismiss.

* 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).

Aguilar-Vallejo contends that the district court erred when it denied his motion to dismiss the indictment. When Aguilar-Vallejo entered an unconditional guilty plea, however, he waived the right to appeal the denial of his motion to dismiss. *See Tollett v. Henderson*, 411 U.S. 258, 267 (1973). We therefore do not address the merits of Aguilar-Vallejo's motion to dismiss. *See United States v. Lopez-Armenta*, 400 F.3d 1173, 1175 (9th Cir. 2005).

DISMISSED.