

APR 28 2011

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NOT FOR PUBLICATION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.

ROGELIO MEDINA DIAZ-BARRIGA,

Defendant - Appellant.

No. 09-30343

D.C. No. 1:08-cr-00207-BLW

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief Judge, Presiding

Submitted April 20, 2011**

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

Rogelio Medina Diaz-Barriga appeals from the 120-month sentence imposed following his guilty-plea conviction for possession with intent to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. § 841(a)(1). We have jurisdiction under 28 U.S.C. § 1291. 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).

We dismiss the appeal based on the valid and enforceable appeal waiver, which encompasses Diaz-Barriga's right to appeal on the grounds raised, and which was knowingly and voluntarily made. *See United States v. Watson*, 582 F.3d 974, 985-88 (9th Cir. 2009); *United States v. VanDoren*, 182 F.3d 1077, 1081 (9th Cir. 1999) (district court satisfied requirements under Fed. R. Crim. P. 11 regarding mandatory minimum penalty). Contrary to Diaz-Barriga's assertion, the government did not waive the appeal waiver.

DISMISSED.