

JUN 23 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NOT FOR PUBLICATION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.

ZACHARY JAMES BACA, Jr.,

Defendant - Appellant.

No. 09-50181

D.C. No. 5:08-cr-00180-VAP

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Virginia A. Phillips, District Judge, Presiding

Submitted June 15, 2011\*\*

Before: CANBY, O'SCANNLAIN, and FISHER, Circuit Judges.

Zachary James Baca, Jr., appeals from the 156-month sentence imposed following his guilty plea conviction for possession with intent to distribute a controlled substance, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(viii). We have jurisdiction under 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).

Baca pleaded guilty pursuant to a written agreement that included an appeal waiver. He contends that the government breached the agreement by making arguments in its sentencing memorandum that were designed to influence the court to impose a higher sentence than what was called for in the agreement. This contention lacks merit. The record reflects that the government fulfilled its obligation to recommend a 151-month sentence, and the information set forth in its sentencing memorandum did not constitute a breach of the plea agreement. *See United States v. Maldonado*, 215 F.3d 1046, 1051-52 (9th Cir. 2000).

Because the 151-month sentence was within the parameters of the appeal waiver, and the waiver was knowingly and voluntarily made, we dismiss the appeal. *See United States v. Watson*, 582 F.3d 974, 986 (9th Cir. 2009).

**DISMISSED.**