

AUG 15 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NOT FOR PUBLICATION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.

SHAKARA THOMAS CARTER,

Defendant - Appellant.

No. 09-10333

D.C. No. 2:06-cr-00468-EJG-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Edward J. Garcia, Senior District Judge, Presiding

Submitted August 11, 2011**
San Francisco, California

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

Defendant Shakara Thomas Carter seeks to appeal from the district court's entry of judgment. Reviewing Defendant's unpreserved objection for plain error, United States v. Dominguez Benitez, 542 U.S. 74, 76 (2004), we affirm.

* 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. Fed. R. App. P. 34(a)(2).

The district court erred by failing to advise Defendant of some of his trial rights, as required by Federal Rule of Criminal Procedure 11(b)(1)(E). But that error did not affect Defendant's substantial rights. We have reviewed the entire record, and we conclude that Defendant has not shown that there is a reasonable probability that he would not have pleaded guilty. See Dominguez Benitez, 542 U.S. at 76 (holding that "a defendant is obliged to show a reasonable probability that, but for the error, he would not have entered the plea").

Because Defendant waived his right to appeal in the plea agreement, he may not appeal his sentence. See United States v. Portillo-Cano, 192 F.3d 1246, 1250 (9th Cir. 1999) (holding that "waivers of appeal must stand or fall with the agreement of which they are a part" (internal quotation marks omitted)).

AFFIRMED.