

MAR 08 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

| |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p>v.</p> <p>EMILIO VALDIVIA-PEREZ,</p> <p style="text-align: center;">Defendant - Appellant.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Nos. 11-10343
11-10349

D.C. Nos. 3:10-cr-00077-RCJ
3:10-cr-00093-RCJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Robert Clive Jones, Chief Judge, Presiding

Submitted February 28, 2012**

Before: LEAVY, THOMAS, and CHRISTEN, Circuit Judges.

Emilio Valdivia-Perez appeals from the 98-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to distribute and to distribute a controlled substance, in violation of 21 U.S.C.

* 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).

§§ 841(a)(1), (b)(1)(B), and 846; and for being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). We have jurisdiction under 28 U.S.C. § 1291, and we dismiss.

Valdivia-Perez contends that the district court erred by denying him a role adjustment under U.S.S.G. § 3B1.2. He also contends that his sentence is substantively unreasonable. Valdivia-Perez knowingly and voluntarily waived his right to appeal these issues in a valid and enforceable appeal waiver. *See United States v. Harris*, 628 F.3d 1203, 1205 (9th Cir. 2011).

DISMISSED.