

JUN 29 2012

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NOT FOR PUBLICATION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.

RAFAEL ARIAS,

Defendant - Appellant.

No. 11-10570

D.C. No. 3:10-cr-00089-RCJ-
VPC-1

MEMORANDUM*

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

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS and GOULD, Circuit Judges.

Rafael Arias appeals the sentence imposed following his guilty plea to
distribution of 50 grams or more of actual methamphetamine in violation of 21

* 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).

U.S.C. § 841(a)(1) and 841(b)(1)(A)(viii). We have jurisdiction under 28 U.S.C. § 1291, and we dismiss.

Arias contends that the district court erred in applying a two-level sentencing enhancement under U.S.S.G. § 3B1.1(c) based on Arias being an organizer, leader, manager, or supervisor of the criminal activity. Arias's knowing and voluntary waiver of his right to appeal any sentence that was within the advisory Sentencing Guidelines range, contained in his written plea agreement, precludes our consideration of this issue. *See United States v. Harris*, 628 F.3d 1203, 1205 (9th Cir. 2011).

DISMISSED.