

SEP 14 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NOT FOR PUBLICATION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.

ATHER ALI,

Defendant - Appellant.

No. 11-50008

D.C. No. 5:08-cr-00242-RHW-2

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Robert H. Whaley, Senior District Judge, Presiding

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Ather Ali appeals from his 37-month sentence for conspiracy to defraud the United States, in violation of 18 U.S.C. § 371. 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).

Ali contends that he was denied effective assistance of counsel at sentencing. We are precluded from considering the merits of Ali's claim by a valid appeal waiver in which Ali gave up his right to pursue a direct appeal of his sentence. *See United States v. Nunez*, 223 F.3d 956, 959 (9th Cir. 2000) (“[O]ne waives his right to argue ineffective assistance of counsel at sentencing on direct appeal when one waives the right to appeal the sentence.”) We dismiss Ali's appeal of the sentence in light of his valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000).

Ali's motion to expedite is denied as moot.

DISMISSED.