

JUN 21 2013

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NOT FOR PUBLICATION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.

RICHARDO LOERA-CARDOSA,

Defendant - Appellant.

No. 12-10247

D.C. No. 2:11-cr-00483-GEB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, Jr., District Judge, Presiding

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

Richardo Loera-Cardosa appeals from the district court’s judgment and challenges the 63-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United States, in violation of 8 U.S.C. § 1326.

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).

Loera-Cardosa argues that the district court erred by failing to explain the sentence. The government contends that the appeal is barred by a valid waiver. We review de novo whether a defendant has waived his right to appeal. *See United States v. Bibler*, 495 F.3d 621, 623 (9th Cir. 2007). Under the terms of the unconditional appeal waiver in the parties' plea agreement, Loera-Cardosa agreed "to voluntarily give up the right to appeal the conviction and the right to appeal any aspect of the sentence imposed in this case." The language of the waiver reaches the present appeal.

Loera-Cardosa argues that the waiver is nonetheless unenforceable, as the court's failure to explain the sentence rendered the sentence illegal. This argument fails because Loera-Cardosa's sentence does not "exceed[] the permissible statutory penalty for the crime or violate[] the Constitution." *Bibler*, 495 F.3d at 624.

DISMISSED.