

OCT 27 2014

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NOT FOR PUBLICATION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.

TOMAS ALVARADO,

Defendant - Appellant.

No. 13-30299

D.C. No. 1:13-cr-00026-SEH-2

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted August 18, 2014**

Before: HUG, FARRIS, and CANBY, Circuit Judges.

Tomas Alvarado appeals from the district court's judgment and challenges the 360-month sentence imposed following his guilty-plea conviction for conspiracy to possess controlled substances with intent to distribute, in violation of 21 U.S.C. § 846. 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).

Alvarado's plea agreement contained waivers of his right to appeal the sentence that are applicable here. He contends that the appeal waivers are not enforceable because of statements by the district court at sentencing. The court did not make an unequivocal or unambiguous statement that Alvarado had the right to appeal his sentence and did not create a reasonable expectation that Alvarado had a right to appeal his sentence. Instead, the court told Alvarado that he had waived his right to appeal, and it informed him of his statutory rights under Federal Rule of Criminal Procedure 32(j) and of his right to challenge the validity of the appeal waivers if he believed he had a right to appeal the sentence. Thus, the court's statements did not render the appeal waivers unenforceable. *See United States v. Arias-Espinoza*, 704 F.3d 616, 617-19 (9th Cir. 2012); *United States v. Aguilar-Muniz*, 156 F.3d 974, 977-78 (9th Cir. 1998).

DISMISSED.