

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 29 2016

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARGARET SILVIA,

Defendant - Appellant.

No. 15-30117

D.C. No. 2:13-cr-00022-SEH

MEMORANDUM*

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

Submitted April 26, 2016**

Before: McKEOWN, WARDLAW, and PAEZ, Circuit Judges.

Margaret Silvia appeals from the district court's amended judgment reducing her sentence from 100 to 74 months. We dismiss.

Silvia waived her right to appeal if the government moved for a sentence reduction under Federal Rule of Criminal Procedure 35 and the district court

* 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).

granted the motion. The government argues that Silvia's appeal should be dismissed because the district court granted its Rule 35 motion. Silvia counters that the waiver is unenforceable because her sentence is illegal and the government breached the plea agreement. We agree with the government. Silvia's sentence is not illegal because it does not exceed the statutory maximum or violate the Constitution. *See United States v. Bibler*, 495 F.3d 621, 624 (9th Cir. 2007). Moreover, the record reflects that the government complied with all of its obligations under the plea agreement, including its promise to recommend a sentence at the low end of the Guidelines range.

DISMISSED.