

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States v. Duarte Godinez

No. 20-60596 (5th Cir. Apr. 7, 2021) (per curiam) (unpublished) · No. No. 20-60596 · Decided April 7, 2021

SUMMARY

The Fifth Circuit dismissed Maria Teresa Duarte Godinez’s appeal of her 262-month sentence for conspiracy to possess with intent to distribute methamphetamine. The court held that her plea-agreement appeal waiver was knowing and voluntary and applied to her claim that the sentence was unreasonable, granting the Government’s motion to dismiss.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Higginbotham, Circuit Judge; Jones, Circuit Judge; Costa, Circuit Judge
JURISDICTION	Federal
DECIDED	April 7, 2021
DOCKET	No. 20-60596
DISPOSITION	dismissed
PROCEDURAL POSTURE	Duarte Godinez appealed her sentence after pleading guilty. The Government moved to dismiss based on the appeal waiver in the plea agreement and alternatively moved for summary affirmance.
STANDARD OF REVIEW	The validity of an appeal waiver is reviewed de novo.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Maria Teresa Duarte Godinez v. United States of America

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the appeal waiver in the plea agreement was knowing and voluntary.

2. Whether the appeal waiver applied to Duarte Godinez's challenge to the reasonableness of her sentence.
3. Whether enforcing the appeal waiver would violate due process or constitute a miscarriage of justice.

HOLDINGS

1. The appeal waiver was knowing and voluntary because the record showed that Duarte Godinez knew she had a right to appeal and understood that she was giving up that right in the plea agreement.
2. The plain language of the appeal waiver barred Duarte Godinez's challenge that her sentence was unreasonable because it failed to account for unwarranted sentencing disparities.
3. Enforcing the valid appeal waiver did not warrant an exception based on due process or miscarriage-of-justice arguments.

FACTUAL BACKGROUND

Duarte Godinez pleaded guilty to conspiracy to possess with intent to distribute 500 grams or more of a mixture or substance containing methamphetamine. She received a 262-month prison sentence. Her plea agreement waived her right to appeal the sentence on any ground except ineffective assistance of counsel, but she appealed on the ground that the sentence was unreasonable because it did not account for unwarranted sentencing disparities.

PROCEDURAL HISTORY

Duarte Godinez pleaded guilty in the United States District Court for the Southern District of Mississippi to conspiracy to possess with intent to distribute 500 grams or more of a mixture or substance containing methamphetamine. The district court imposed a 262-month prison sentence. On appeal, she challenged the reasonableness of the sentence and argued that enforcing the appeal waiver would violate due process and result in a miscarriage of justice.

DISPOSITION

dismissed

CASES CITED

- United States v. Baymon, 312 F.3d 725, 727 (5th Cir. 2002)
- United States v. Portillo, 18 F.3d 290, 292 (5th Cir. 1994)
- United States v. Bond, 414 F.3d 542, 544, 546 (5th Cir. 2005)

OPINION

United States v. Duarte Godinez

PER CURIAM.

Case: 20-60596 Document: 00515811648 Page: 1 Date Filed: 04/07/2021 United States Court of Appeals for the Fifth Circuit United States Court of Appeals Fifth Circuit

FILED

April 7, 2021 No. 20-60596 Lyle W. Cayce Summary Calendar Clerk United States of America, Plaintiff—Appellee, versus Maria Teresa Duarte Godinez, Defendant—Appellant. Appeal from the United States District Court for the Southern District of Mississippi
USDC No. 1:17-CR-90-2

Before Higginbotham, Jones, and Costa, Circuit Judges. Per Curiam:* Maria Teresa Duarte Godinez pleaded guilty to conspiracy to possess with intent to distribute 500 grams or more of a mixture or substance containing methamphetamine. She contends that her 262-month prison term was unreasonable because it did not account for the need to avoid * Pursuant to 5th Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Circuit Rule 47.5.4. Case: 20-60596 Document: 00515811648 Page: 2 Date Filed: 04/07/2021 No. 20-60596 unwarranted sentencing disparities. Relying on the appeal waiver in her plea agreement, the Government moves to dismiss the appeal. According to Duarte Godinez, enforcing the waiver would violate her right to due process and constitute a miscarriage of justice by barring consideration of the issue that arose at sentencing and thus undermining meaningful appellate review and the development of jurisprudence. She contends that the waiver was unknowing and involuntary because she was unaware of the meritorious sentencing issue when she executed the plea agreement. She further contends that, without the waiver, she provided consideration for the plea bargain by waiving her rights to remain silent, confront witnesses, and a jury trial. We review the validity of an appeal waiver de novo. *United States v. Baymon*, 312 F.3d 725, 727 (5th Cir. 2002). The waiver provision in Duarte Godinez’s plea agreement waived her right to appeal the sentence on any ground whatsoever, with the exception of ineffective assistance of counsel. The record shows that the waiver was knowing and voluntary, as she knew she had the right to appeal and that she was giving up that right in the plea agreement. See *United States v. Portillo*, 18 F.3d 290, 292 (5th Cir. 1994). Because the plain language of the waiver applies to her claim that the sentence was unreasonable, the appeal is DISMISSED. See *United States v. Bond*, 414 F.3d 542, 544, 546 (5th Cir. 2005). The motion to dismiss is GRANTED, and the Government’s alternative motion for summary affirmance is DENIED. 2