

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 18, 2021

Lyle W. Cayce
Clerk

No. 20-61132
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MARK ALLEN LACY, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:20-CR-114-1

Before DAVIS, STEWART, and DENNIS, *Circuit Judges*.

PER CURIAM*

Mark Allen Lacy, Jr., appeals the five-year sentence of probation imposed following his guilty plea conviction for simple assault on a federal officer. He raises arguments related to the substantive reasonableness of his

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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sentence. The Government moves to dismiss or, alternatively, for summary affirmance based on the appeal waiver in Lacy's plea agreement.

This court reviews the enforceability of an appeal waiver de novo. *United States v. Winchel*, 896 F.3d 387, 388 (5th Cir. 2018). The record reflects that Lacy's appeal waiver was knowing and voluntary. *See United States v. McKinney*, 406 F.3d 744, 746 n.2 (5th Cir. 2005). In addition, the language of the appeal waiver forecloses challenges to Lacy's sentence, and he does not argue that the appeal waiver is inapplicable specifically because his sentence exceeds the statutory maximum. *See United States v. Bond*, 414 F.3d 542, 544 (5th Cir. 2005); *see also United States v. Barnes*, 953 F.3d 383, 389 & n.10 (5th Cir.), *cert. denied*, 141 S. Ct. 438 (2020).

Accordingly, the Government's motion to dismiss the appeal is GRANTED, and its alternative motion for summary affirmance is DENIED.

APPEAL DISMISSED.