

March 28, 2006

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 03-60832  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES DEAN BRYANT,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 2:03-CR-6-1-PG  
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**ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES**

Before JONES Chief Judge, and HIGGINBOTHAM, and PRADO, Circuit Judges.

PER CURIAM:\*

In July 2004, this court granted the Government's motion to dismiss the appeal as waived pursuant to a provision in the plea agreement of defendant-appellant Charles Dean Bryant. The Supreme Court has vacated and remanded for further consideration in light of United States v. Booker, 543 U.S. 220 (2005).

We review de novo whether a waiver provision bars an appeal. United States v. Baymon, 312 F.3d 725, 727 (5th Cir. 2002). We

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

determine whether the waiver was knowing and voluntary and whether the waiver applies to the circumstances at issue. United States v. Bond, 414 F.3d 542, 544 (5th Cir. 2005).

The record reflects that Bryant knowingly and voluntarily waived his right to appeal his sentence "on any ground whatsoever." See United States v. Cortez, 413 F.3d 502, 503 (5th Cir. 2005); United States v. McKinney, 406 F.3d 744, 746 (5th Cir. 2005); FED. R. CRIM. P. 11(b)(1)(N). Because Bryant's sentence did not exceed the statutory maximum, we DISMISS the appeal as barred by the waiver contained in Bryant's plea agreement.