

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 15-11007-BB

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARNESHA ALEXANDER,
a.k.a. Neshia,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Alabama

Before: TJOFLAT, HULL, and JORDAN, Circuit Judges.

BY THE COURT:

Charnesha Alexander appeals the 111-month term of imprisonment she received after pleading guilty to conspiring to defraud the United States, in violation of 18 U.S.C. § 286, and aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1). The government, however, has filed a motion to dismiss Alexander's appeal based on the sentence appeal waiver in her plea agreement.

Alexander's plea agreement included a sentence appeal waiver that provided, in relevant part:

the [d]efendant expressly waives any and all rights conferred by 18 U.S.C. § 3742 and 28 U.S.C. § 1291 to appeal the sentence. The [d]efendant further expressly waives the right to appeal the conviction and sentence on any other ground and

waives the right to attack the conviction and sentence in any post-conviction proceeding. This waiver does not include the right to appeal on the ground of ineffective assistance of counsel or prosecutorial misconduct. . . . However, if the United States appeals the [d]efendant's sentence pursuant to 18 U.S.C. § 3742(b), the [d]efendant is released from this waiver[.]

We review the validity of a sentence appeal waiver *de novo*. *United States v. Johnson*, 541 F.3d 1064, 1066 (11th Cir. 2008). We will enforce a sentence appeal waiver that was made knowingly and voluntarily. *United States v. Bushert*, 997 F.2d 1343, 1350 (11th Cir. 1993). To establish that the waiver was made knowingly and voluntarily, the government must show either that (1) the district court specifically questioned the defendant about the waiver during the plea colloquy, or (2) the record makes clear that the defendant otherwise understood the full significance of the waiver. *Id.* at 1351.

Here, during the plea colloquy, the district court specifically questioned her about the sentence appeal waiver. She indicated that she understood the rights she was giving up, and stated that she had discussed both the waiver provision and the plea agreement as a whole with her attorney. Thus, she made the waiver knowingly and voluntarily. *See Bushert*, 997 F.2d at 1351. Further, the exceptions to her appeal waiver do not apply because she has not alleged ineffective assistance of counsel or prosecutorial misconduct, and the government has not appealed.

Accordingly, we grant the government's motion to dismiss based on the sentence appeal waiver, and dismiss Alexander's appeal.¹

DISMISSED.

¹ The government also argues that we should dismiss Alexander's appeal as frivolous. Because of the enforceable sentence appeal waiver, however, we do not reach the merits of the appeal. Accordingly, we decline to address this argument.