

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 12-15349-EE

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PAULO MORALES,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

Before WILSON, MARTIN and FAY, Circuit Judges.

BY THE COURT:

Paulo Morales appeals his 33-month total sentence, imposed after he pleaded guilty to three counts of deprivation of rights under color of law, in violation of 18 U.S.C. § 242. In its response, the government argues that Morales's appeal is barred by the appeal waiver in his plea agreement. Morales does not address his appeal waiver in his appellate brief. We construe the government's argument as a

motion to dismiss Morales's appeal based on his appeal waiver, which is hereby GRANTED.

The district court explained to Morales the details of the appeal waiver, and Morales acknowledged that he understood he could not appeal his sentence except under limited circumstances. Morales did not express any confusion about the waiver during the plea colloquy and does not claim on appeal that it is invalid or inapplicable for any reason. *See United States v. Bushert*, 997 F.2d 1343, 1351 (11th Cir. 1993) (explaining that an appeal waiver will be enforced if it was made knowingly and voluntarily). Although the district court advised Morales at the sentencing hearing that he had the right to appeal his sentence, that comment did not vitiate or alter his appeal waiver. *See United States v. Bascomb*, 451 F.3d 1292, 1297 (11th Cir. 2006) (noting that an appeal waiver "cannot be vitiated or altered by comments the court makes during sentencing"). Under the circumstances, Morales's appeal waiver is valid. Moreover, none of the exceptions to Morales's appeal waiver applies, because his sentence did not exceed the statutory maximum or result from an upward departure, and the government has not appealed.