

**FILED**

**NOV 26 2007**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALEJANDRO JIMINEZ-MAGALLON,

Defendant - Appellant.

No. 06-30355

D.C. No. CR-05-05529-001-FDB

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Franklin D. Burgess, District Judge, Presiding

Submitted November 13, 2007\*\*

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges

Alejandro Jiminez-Magallon appeals from his guilty-plea conviction and 120-month sentence for conspiracy to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 846. Because Jiminez-Magallon waived his right to appeal, we dismiss.

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Jiminez-Magallon contends that the language of his plea agreement did not expressly waive his right to directly appeal counsel's ineffectiveness with respect to plea negotiations. We conclude that the appeal waiver contained in Jiminez-Magallon's plea agreement encompasses direct appeal of this issue. *See United States v. Nunez*, 223 F.3d 956, 958 (9th Cir. 2000).

Jiminez-Magallon also contends that his appeal waiver is not enforceable because he received ineffective assistance of counsel during the negotiation of his plea agreement. Because the record is insufficiently developed, we decline to consider this issue on direct appeal. *See United States v. Jeronimo*, 398 F.3d 1149, 1155-56 (9th Cir. 2005).

Jiminez-Magallon also contends that this appeal is not barred because the district court told him at sentencing that he had a right to appeal. However, the appeal waiver is valid because the district court informed him at the change of plea hearing that he was waiving his right to appeal. *See United States v. Lopez-Armenta*, 400 F.3d 1173, 1177 (9th Cir. 2005).

**DISMISSED.**