

DEC 30 2008

MOLLY C. DWYER, 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NOT FOR PUBLICATION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.

VALDAMERO QUIROGA-ZARATE,

Defendant - Appellant.

No. 08-10133

D.C. No. 2:06-cr-00227-LDG-
GWF

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Lloyd D. George, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and TROTT, Circuit Judges.

Valdamero Quiroga-Zarate appeals the sentence imposed following his guilty plea to distribution of methamphetamine in violation of 21 U.S.C.

§ 841(a)(1). He contends that the waiver of appeal set forth in his plea agreement

* 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).

violated his right to due process because he could not knowingly and intelligently waive his right to appeal a sentence that had not yet been imposed. As Quiroga-Zarate acknowledges, this contention is foreclosed. *See United States v. Cope*, 527 F.3d 944, 949 (9th Cir.), *cert. denied*, 129 S. Ct. 321 (2008).

DISMISSED.