

MAR 27 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>REYES GARRATE-TIRADO,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 08-10241

D.C. No. 2:07-cr-00427-FJM-2

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frederick J. Martone, District Judge, Presiding

Submitted March 18, 2009**

Before: LEAVY, HAWKINS and TASHIMA, Circuit Judges.

Reyes Garrate-Tirado appeals from the 34-month sentence imposed following his guilty-plea conviction for harboring illegal aliens, in violation of

* 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).

8 U.S.C. § 1324 (a)(1)(A)(iii) and (v)(iii). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we dismiss based on the valid appeal waiver.

We review de novo Garrate-Tirado's contention that the appeal waiver in his plea agreement does not preclude this appeal because it does not unambiguously prevent him from challenging the manner in which his sentence was imposed. *See United States v. Bibler*, 495 F.3d 621, 624 (9th Cir. 2007). We are unpersuaded, because the plea agreement unambiguously waives the right to any appeal permitted by 18 U.S.C. § 3742, which includes Garrate-Tirado's claim that his sentence was imposed in violation of law. We therefore enforce the valid appeal waiver. *See United States v. Bibler*, 495 F.3d at 624.

DISMISSED.