

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 09-2578

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United States of America,	*
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Appellee,	*
	* Appeal from the United States
v.	* District Court for the
	* District of Minnesota.
Jesus Cortez,	*
	* [UNPUBLISHED]
Appellant.	*

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Submitted: February 8, 2010  
Filed: April 6, 2010

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Before LOKEN,<sup>1</sup> Chief Judge, GRUENDER and BENTON, Circuit Judges.

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PER CURIAM.

Jesus Medina Cortez appeals the below-guidelines sentence the district court<sup>2</sup> imposed after he pled guilty to one count of conspiracy to distribute five or more kilograms of cocaine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846.

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<sup>1</sup> The Honorable James B. Loken stepped down as Chief Judge for the United States Court of Appeals for the Eighth Circuit at the close of business on March 31, 2010. He has been succeeded by the Honorable William Jay Riley.

<sup>2</sup> The Honorable Richard H. Kyle, United States District Judge for the District of Minnesota.

After calculating a guidelines range of 97 to 120 months, the court granted a government motion for a downward departure based on substantial assistance, and sentenced Cortez to 60 months' imprisonment. Under the plea agreement, Cortez waived his right to appeal unless the sentence exceeded 135 months.

Cortez challenges neither the validity nor the scope of his waiver. He also does not allege that imposition of the sentence is a miscarriage of justice. He instead argues his sentence is unreasonable. This court will not, however, review his reasonableness claim. *See United States v. Sisco*, 576 F.3d 791, 795-96 (8th Cir. 2009) (a waiver of appeal is enforceable where the appeal is within the scope of the waiver, the waiver was knowing and voluntary, and enforcement would not result in a miscarriage of justice).

Having jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742, this court affirms the judgment of the district court.

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