

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4522

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CHARLES A. ROSS,

Defendant - Appellant.

Appeal from the United States District Court for the Northern
District of West Virginia, at Clarksburg. Irene M. Keeley, Chief
District Judge. (CR-04-25)

Submitted: March 30, 2006

Decided: April 5, 2006

Before TRAXLER, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

L. Richard Walker, Assistant Federal Public Defender, Clarksburg,
West Virginia, for Appellant. Thomas E. Johnston, United States
Attorney, Shawn Angus Morgan, Assistant United States Attorney,
Clarksburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Charles A. Ross appeals from the criminal judgment imposed after he pled guilty to possession of pseudoephedrine with intent to manufacture methamphetamine and possession of a firearm in furtherance of a drug trafficking crime. He received a 169-month sentence. On appeal, Ross argues that the district court erred in sentencing him because he is entitled to an additional one-level reduction for acceptance of responsibility and that the Government breached the plea agreement by failing to move for the additional reduction for acceptance of responsibility. The Government responds that Ross waived his right to appeal and that the waiver should be enforced. We agree with the Government and dismiss the appeal.

Where it is determined that the Government has breached its obligations under a plea agreement, the defendant is released from any appeal waiver set forth in the plea agreement. United States v. Bowe, 257 F.3d 336, 342 (4th Cir. 2001). Our review of the record and the applicable law reveals that the Government did not breach the plea agreement with Ross. Because Ross' sentence places him within the scope of the appeal waiver, we dismiss the appeal. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED