

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 06-4786**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GREGORY JOHN MITCHEL,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, District Judge. (7:05-cr-00090-SGW)

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Submitted: April 26, 2007

Decided: April 30, 2007

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Before WILLIAMS, MICHAEL, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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C. Gregory Phillips, PHILLIPS & PHILLIPS, Salem, Virginia, for Appellant. John L. Brownlee, United States Attorney, Joseph W.H. Mott, Assistant United States Attorney, Roanoke, Virginia, Bonnie L. Kane, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gregory John Mitchel pled guilty to one count of production of child pornography in interstate commerce in violation of 18 U.S.C. § 2251(a) (2000), and one count each of transportation, sale, and possession of child pornography, all in violation of 18 U.S.C. § 2252A(a) (2000). On appeal, Mitchel claims the district court violated his plea agreement by correcting an error in the calculation of his guidelines range and sentencing him to a sentence higher than the one anticipated by his plea agreement. The Government asserts the appeal should be dismissed because Mitchel knowingly and voluntarily waived his right to appeal his sentence. Because we find the appeal waiver is valid and that the issue raised by Mitchel is within the scope of the waiver, we dismiss the appeal.

Mitchel's plea agreement contained an appellate waiver that stated he knowingly waived the right to appeal "any sentence within the advisory guidelines range of punishment calculated by the district court." The record reveals, and Mitchel does not contest, that Mitchel agreed to this waiver knowingly and voluntarily. See United States v. Blick, 408 F.3d 162, 168-69 (4th Cir. 2005). Moreover, Mitchel does not dispute that the sentence he received was within a properly calculated guidelines range, thereby falling within the purview of his appellate waiver. See id. at 169-70.

Accordingly, we dismiss Mitchel's 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