

E.D.N.Y.-Bklyn.
16-cr-308
Irizarry, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 29th day of May, two thousand eighteen.

Present:

Reena Raggi,
Gerard E. Lynch,
Circuit Judges,
Lewis A. Kaplan,*
District Judge.

United States of America,

Appellee,

v.

17-2928

Erdal Kuyumcu,

Defendant-Appellant.


The Government moves to dismiss this appeal as barred by the waiver of appellate rights contained in Appellant's plea agreement. Upon due consideration, it is hereby ORDERED that the Government's motion to dismiss is DENIED, because Appellant's argument that there were errors in the process leading to his guilty plea is not barred by the appeal waiver. *See United States v. Adams*, 448 F.3d 492, 497 (2d Cir. 2006) (observing that, despite appeal waiver, "'defendant retains the right to contend that there were errors in the proceedings that led to the acceptance of his plea of guilty,' and he may argue that the district court failed to satisfy the requirement that there is a factual basis for the plea" (quoting *United States v. Maher*, 108 F.3d 1513, 1528–29 (2d Cir. 1997))).

* Judge Lewis A. Kaplan, of the United States District Court for the Southern District of New York, sitting by designation.

Appellant is directed to file a scheduling notification pursuant to Second Circuit Local Rule 31.2.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court


Catherine O'Hagan Wolfe