

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

October 20, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FEDERICO RIVERA,

Defendant - Appellant.

No. 21-1142
(D.C. No. 1:19-CR-00191-PAB-1)
(D. Colo.)

ORDER AND JUDGMENT*

Before **HARTZ, BACHARACH, and EID**, Circuit Judges.

Federico Rivera pleaded guilty to one count of being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1); two counts of attempted carjacking, in violation of 18 U.S.C. § 2119; and one count of brandishing a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii). He was sentenced to 144 months' imprisonment. Although his plea agreement contained a waiver of his appellate rights, he filed a notice of appeal. The government has moved to enforce the appeal waiver in the plea agreement

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

pursuant to *United States v. Hahn*, 359 F.3d 1315 (10th Cir. 2004) (en banc) (per curiam).

Under *Hahn*, we consider “(1) whether the disputed appeal falls within the scope of the waiver of appellate rights; (2) whether the defendant knowingly and voluntarily waived his appellate rights; and (3) whether enforcing the waiver would result in a miscarriage of justice.” *Id.* at 1325.

In response to the government’s motion, Mr. Rivera, through counsel, “acknowledges that his appeal waiver is enforceable under the standard set out in . . . *Hahn*.” Resp. at 1. Based on this concession and our independent review of the record, we grant the government’s motion to enforce the appeal waiver and dismiss the appeal. This dismissal does not affect Mr. Rivera’s right to pursue post-conviction relief on the grounds permitted in his plea agreement.

Entered for the Court
Per Curiam