

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

August 19, 2021

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EBER URIEL PEREZ-RAMIREZ,

Defendant - Appellant.

No. 21-1168
(D.C. No. 1:20-CR-00028-RM-4)
(D. Colo.)

ORDER AND JUDGMENT*

Before **MATHESON, PHILLIPS, and MORITZ**, Circuit Judges.

After entering into a plea agreement that included a waiver of his right to appeal, Eber Uriel Perez-Ramirez pleaded guilty to conspiring to distribute 50 grams or more of methamphetamine and 500 grams or more of a substance containing a detectable amount of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(viii), and 846. After he was sentenced to 126 months in prison, below the applicable Sentencing Guidelines range, he appealed. The government has moved to enforce the appeal waiver under *United States v. Hahn*, 359 F.3d 1315, 1328 (10th Cir. 2004) (en banc) (per curiam).

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

Hahn sets forth three factors to evaluate an appeal waiver: “(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.

Mr. Perez-Ramirez, through counsel, concedes that he “has no grounds to oppose the government’s motion.” Aplt. Resp. at 2.

We need not address a *Hahn* factor that the defendant does not dispute. *See United States v. Porter*, 405 F.3d 1136, 1143 (10th Cir. 2005). In light of Mr. Perez-Ramirez’s concession, the motion to enforce is granted and this appeal is dismissed.

Entered for the Court
Per Curiam