

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 3, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENYATTA WAYNE ACEY,

Defendant - Appellant.

No. 21-6027
(D.C. No. 5:10-CR-00153-F-1)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, Chief Judge, **MATHESON** and **PHILLIPS**, Circuit Judges.

This matter is before the court on the government’s Motion for Remand (the “Motion”). At the court’s direction, the defendant filed a response to the Motion. The defendant does not oppose remanding this case to the district court. Upon consideration, the Motion is granted, as provided below.

This matter is fully remanded to the district court with instructions to vacate the orders entered February 10, 2021 denying the defendant’s motion for

* After examining the parties’ submissions and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 Federal Rule of Appellate Procedure 32.1 and Tenth Circuit Rule 32.1.

compassionate release and February 22, 2021 denying the defendant's motion to reconsider the order denying his motion for compassionate release. The district court is directed to consider the defendant's motion for compassionate release anew with consideration given to this court's recent decisions in *United States v. McGee*, 992 F.3d 1035 (10th Cir. 2021), and *United States v. Maumau*, 993 F.3d 821 (10th Cir. 2021), along with any other factors and matters it deems appropriate under the circumstances. The district court may conduct any and all proceedings it deems necessary and proper to complete the proceedings on remand.

This appeal is dismissed. The mandate shall issue forthwith. Appellant's motion to proceed on appeal *in forma pauperis* is granted.

Entered for the Court

Per Curiam