

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 13, 2019

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CESAR PAUL CANSINO-OBESO,

Defendant - Appellant.

No. 19-1102
(D.C. No. 1:18-CR-00209-CMA-1)
(D. Colo.)

ORDER AND JUDGMENT*

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

Cesar Paul Cansino-Obeso pleaded guilty to conspiracy to distribute or possess with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine. Under their Fed. R. Crim. P. 11(c)(1)(C) plea agreement, the parties agreed that a term of imprisonment between 121 and 168 months would be an appropriate disposition of the case. The district court accepted the plea agreement and imposed a sentence of 168 months in prison.

Despite the plea agreement containing a broad waiver of his right to appeal, Mr. Cansino-Obeso filed a notice of appeal. The government has moved to enforce

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

the appeal waiver under *United States v. Hahn*, 359 F.3d 1315, 1328 (10th Cir. 2004) (en banc) (per curiam).

Counsel for Mr. Cansino-Obeso filed a response to the motion to enforce citing *Anders v. California*, 386 U.S. 738 (1967), and stating his belief that “opposition to the Government’s motion to enforce Mr. Cansino-Obeso’s appellate waiver would be wholly frivolous.” Resp. at 1. Counsel also filed a motion to withdraw. We gave Mr. Cansino-Obeso an opportunity to file his own response to the motion to enforce, but he has not done so.

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.” 359 F.3d at 1325. We have reviewed the proceedings in accordance with our obligation under *Anders*. See 386 U.S. at 744. We conclude that the *Hahn* factors have been satisfied, and there is no non-frivolous argument to make against enforcing the appeal waiver. Accordingly, we grant the government’s motion to enforce the appeal waiver and we dismiss the appeal. We also grant counsel’s motion to withdraw.

Entered for the Court
Per Curiam