

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

February 27, 2020

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EVERETT BERNARD ROBINSON,

Defendant - Appellant.

No. 19-6087
(D.C. No. 5:07-CR-00072-R-1)
(W.D. Okla.)

ORDER AND JUDGMENT*

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

Defendant Everett Robinson appealed the district court's April 29, 2019 order dismissing for lack of jurisdiction his motion for relief from his prison sentence under the First Step Act. After the appeal was fully briefed, Mr. Robinson filed a motion in the district court seeking compassionate release from federal custody. The district court granted the motion for compassionate release in its February 10, 2020 order and reduced his sentence of imprisonment to time served. According to the

* After examining the briefs 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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 Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Bureau of Prison's inmate locator, Mr. Robinson was released from federal custody on February 11, 2020.¹

The government has moved the court to dismiss this appeal as moot. Because Mr. Robinson was only challenging his sentence in this appeal, not his conviction, the only remedy he could have achieved with a successful appeal was relief from his sentence. Since Mr. Robinson's sentence has now been reduced to time served and he has been released from custody, this court cannot provide any additional relief to Mr. Robinson through the appeal. *See United States v. Meyers*, 200 F.3d 715, 718 (10th Cir. 2000). The government conceded that Mr. Robinson had not been served with its motion to dismiss but only because he had not provided the government an updated mailing address. Similarly, Mr. Robinson has not provided a new mailing address to the court. *See* 10th Cir. R. 46.1(C).

Under the circumstances presented here, the government's motion to dismiss the appeal as moot is granted. The appellant's pending motion for *in forma pauperis* status is also granted. This appeal is dismissed.

The clerk is directed to issue the mandate forthwith.

Entered for the Court

Per Curiam

¹ <https://www.bop.gov/inmateloc/> (searched Feb. 25, 2020).