

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 16, 2020

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JASON WAYNE CAREY,

Defendant - Appellant.

No. 19-7064
(D.C. No. 6:16-CR-00025-RAW-1)
(E.D. Okla.)

ORDER AND JUDGMENT*

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

Mr. Jason Wayne Carey was convicted of being a felon in possession of an explosive. *See* 18 U.S.C. §§ 842(i)(1), 844(a)(1). The initial sentence was sixty months' imprisonment and thirty-six months' supervised release, but the sentence was later reduced to thirty-six month terms of

* Oral argument would not materially help us to decide this appeal. We have therefore decided the appeal based on the appellate brief and the record on appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G).

This order and judgment does not constitute binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. But the order and judgment may be cited for its persuasive value if otherwise appropriate. Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

imprisonment and supervised release. Mr. Carey later violated the terms and conditions of supervised release when he

- committed domestic assault and battery,
- failed to comply with drug testing, and
- failed to secure and maintain gainful employment.

The district court thus revoked Mr. Carey's supervised release and sentenced him to twelve months' imprisonment and twenty-four months' supervised release. Mr. Carey appeals.

Mr. Carey's counsel filed an *Anders* brief, showing counsel's conscientious examination of the case to identify potential issues for appeal. *Anders v. California*, 386 U.S. 738, 744 (1967). Concluding that any appeal would be frivolous, Mr. Carey's counsel seeks leave to withdraw. Mr. Carey did not file a *pro se* brief or identify any issues for appeal.

After reviewing counsel's brief and the record, we grant counsel's request for leave, decline to appoint new counsel for Mr. Carey, and dismiss the appeal.

Mr. Carey's counsel has identified three potential appellate issues:

1. The district court erroneously revoked Mr. Carey's supervised release.
2. The district court unreasonably sentenced Mr. Carey to twelve months' imprisonment and twenty-four months' supervised release.

3. The district court abused its discretion in imposing a condition that Mr. Carey abstain from drinking alcohol during his supervised release.

Mr. Carey's counsel regards these potential arguments as frivolous, and we agree. We thus grant counsel's request for leave, decline to appoint Mr. Carey a new attorney, and dismiss the appeal.

Entered for the Court

Robert E. Bacharach
Circuit Judge