

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

January 11, 2021

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSHUA DAVID GESS,

Defendant - Appellant.

No. 20-1353
(D.C. No. 1:19-CR-00507-PAB-1)
(D. Colo.)

ORDER AND JUDGMENT*

Before **HOLMES, PHILLIPS**, and **McHUGH**, Circuit Judges.

This matter comes before the court on the government's motion to dismiss as moot Defendant Joshua David Gess's appeal of the district court's denial of release pending trial. On December 29, 2020, Mr. Gess pleaded guilty to a superseding indictment and was remanded to custody pending sentencing. Because Mr. Gess no longer has a legally cognizable interest in the decision whether he should have been released on bail *pending trial*, his appeal is moot. *See Murphy v. Hunt*, 455 U.S. 478,

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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

481 (1982) (per curiam) (concluding that a defendant's claim to pretrial bail was moot once he was convicted).

We grant the government's motion and dismiss the appeal as moot.

Entered for the Court
Per Curiam