

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

February 19, 2021

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CARLOS JOSE LUERAS,

Defendant - Appellant.

Nos. 20-2099 & 20-2109
(D.C. Nos. 1:08-CR-00456-JCH-1 &
1:17-CR-00361-JCH-1)
(D. N.M.)

ORDER AND JUDGMENT*

Before **HARTZ, KELLY**, and **McHUGH**, Circuit Judges.**

Defendant-Appellant Carlos Jose Lueras appeals from the district court after being sentenced to 13 months' imprisonment and two years of supervised release for violating terms of his supervised release. Mr. Lueras' appellate counsel — believing Mr. Lueras lacks any meritorious, nonfrivolous ground for appeal — moved to withdraw from representation and filed an Anders brief. See Anders v. California, 386 U.S. 738, 744 (1967). Counsel mailed the Anders brief to the address Mr. Lueras

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

** 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.

provided to the Probation Office, as did the Clerk's office.¹ See 10th Cir. R. 46.4(B). Counsel also made reasonable efforts to contact Mr. Lueras by phone and email regarding the Anders brief. Mot. Withdraw 2–3 (Nov. 16, 2020). However, Mr. Lueras did not file a response. Exercising jurisdiction under 28 U.S.C. § 1291, we grant the motion to withdraw and dismiss this appeal.

When counsel for a defendant has conscientiously examined a client's case and determined that any appeal would be “wholly frivolous,” counsel may move to withdraw and file a brief explaining why the appeal lacks merit. Anders, 386 U.S. at 744. Under Anders, we examine the case and counsel's evaluation and make an independent determination whether the appeal has merit. See United States v. Griffith, 928 F.3d 855, 863–64 (10th Cir. 2019). If we agree that the appeal is frivolous, we may grant the motion to withdraw and dismiss the appeal. Id. at 864. After our careful review of the record, we conclude that the district court did not abuse its discretion by revoking Mr. Lueras' supervised release and sentencing him to 13 months' imprisonment. Mr. Lueras voluntarily admitted to violating three conditions of his supervised release and there was adequate support demonstrating those violations. Additionally, the 13-month sentence was reasonable considering it was within the guidelines range and the district court's explanation of the sentence.

¹ The Clerk's office sent a certified letter regarding the brief to the address provided by the Probation Office. However, the letter was returned and the Clerk's office was unable to locate a current address for Mr. Lueras.

Counsel's motion for leave to withdraw is GRANTED and this appeal is
DISMISSED.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge