

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 19, 2022

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HAYLEE PLOTT McDONALD,

Defendant - Appellant.

No. 22-4051
(D.C. No. 2:21-CR-00384-DS-1)
(D. Utah)

ORDER AND JUDGMENT*

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

Pursuant to a plea agreement, Haylee Plott McDonald pleaded guilty to being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1). She was sentenced to 37 months’ imprisonment. Ms. McDonald has filed an appeal despite the fact that her plea agreement contains a waiver of the right to appeal. The government has moved to enforce the appeal waiver. *See United States v. Hahn*, 359 F.3d 1315, 1328 (10th Cir. 2004) (en banc) (per curiam).

In evaluating a motion to enforce a waiver, we consider: “(1) whether the disputed appeal falls within the scope of the waiver of appellate rights; (2) whether the defendant

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

knowingly and voluntarily waived [her] appellate rights; and (3) whether enforcing the waiver would result in a miscarriage of justice.” *Id.* at 1325. In response to the motion, Ms. McDonald, through counsel, has not disputed any of these factors. She concedes that the appeal falls within the scope of the appeal waiver, that she entered into the plea agreement knowingly and voluntarily, and that enforcement of the appeal waiver would not result in a miscarriage of justice.

Our independent review confirms that Ms. McDonald’s appeal waiver is enforceable. She has identified no issues she wishes to raise on appeal that fall outside the scope of the appeal waiver. The plea agreement clearly sets forth the appeal waiver and states that Ms. McDonald agreed to it knowingly and voluntarily, and the district court confirmed Ms. McDonald’s understanding of the plea agreement during the change of plea hearing. Moreover, we see no evidence contradicting Ms. McDonald’s knowing and voluntary acceptance of the appeal waiver. Finally, there is no indication that enforcing the waiver would result in a miscarriage of justice as defined in *Hahn*, 359 F.3d at 1327.

For the foregoing reasons, we grant the government’s motion to enforce the appeal waiver and dismiss the appeal.

Entered for the Court
Per Curiam