

**UNITED STATES COURT OF APPEALS**

**JUN 16 2004**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ALEXANDER CHOATE,

Defendant-Appellant.

No. 03-7066  
(D.C. No. 99-CR-87-S)  
(E.D. Oklahoma)

---

**ORDER AND JUDGMENT\***

---

Before **SEYMOUR**, **LUCERO**, and **O'BRIEN**, Circuit Judges.

---

Alexander Choate pled guilty on March 29, 2000, to attempted aggravated sexual abuse in Indian Country in violation of 18 U.S.C. §§ 1153 and 2241(a). He did not file a direct appeal. Almost three years later, Mr. Choate filed a "Freedom of Information Request" in the federal district court in Oklahoma where

---

\*After examining appellant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2) and 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, or collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

he was convicted, seeking various documents from his criminal case. In a minute order, the district court denied the request “for the reason that federal courts are not subject to the provisions of the Freedom of Information Act,” citing 5 U.S.C. § 551(1)(B). Mr. Choate appeals. Because the district court’s denial was unquestionably proper, we affirm.

Certain agencies of the United States government must make their rules, opinions, orders, records, and proceedings available to the public pursuant to 5 U.S.C. § 552, popularly known as the Freedom of Information Act (FOIA). In 5 U.S.C. § 551(1)(B), however, Congress explicitly excepted the courts of the United States from coverage under FOIA. *See Crystal Grower’s Corp. v. Doblins*, 616 F.2d 458, 461 n.1 (10th Cir. 1980). The district court, therefore, could not release the documents sought by Mr. Choate through a FOIA request, and the request was correctly denied.

For the foregoing reasons, we **AFFIRM**.<sup>1</sup>

ENTERED FOR THE COURT

Stephanie K. Seymour  
Circuit Judge

---

<sup>1</sup>We deny Mr. Choate’s motion requesting that we dismiss the government’s brief because the U.S. Attorney’s name appears on it along with the Assistant U.S. Attorney.