

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

July 29, 2022

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID A. JACKSON, a/k/a Gerald David
Jackson, a/k/a Gerald D. Roderick-Jackson,

Defendant - Appellant.

No. 22-8032
(D.C. No. 1:21-CR-00087-NDF-1)
(D. Wyo.)

ORDER AND JUDGMENT*

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

After David A. Jackson entered into a plea agreement that included a waiver of his right to appeal, he pleaded guilty to wire fraud, willful failure to pay employment taxes, and failure to file an individual tax return. He was sentenced to 46 months in prison. Despite his waiver, he has filed a notice of appeal. The government has moved to enforce the appeal waiver under *United States v. Hahn*, 359 F.3d 1315, 1328 (10th Cir. 2004) (en banc) (per curiam).

Hahn sets forth three factors to evaluate an appeal waiver: “(1) whether the disputed appeal falls within the scope of the waiver of appellate rights; (2) whether

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

the defendant knowingly and voluntarily waived his appellate rights; and (3) whether enforcing the waiver would result in a miscarriage of justice.” *Id.* at 1325. In response to the government’s motion, Mr. Jackson, through counsel, has stated that he does not object to the dismissal of this appeal pursuant to *Hahn*.

We need not address the *Hahn* factors when the defendant does not dispute them. *See United States v. Porter*, 405 F.3d 1136, 1143 (10th Cir. 2005). In light of Mr. Jackson’s concession, the motion to enforce is granted and this appeal is dismissed.

Entered for the Court
Per Curiam