

August 26, 2008

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

BENJAMIN ARCHULETA,

Defendant-Appellant.

No. 08-4037

(D.C. No. 2:05-CR-00676-DB-1)

(D. Utah)

ORDER AND JUDGMENT*

Before **KELLY, LUCERO, and TYMKOVICH**, Circuit Judges.

This matter is before the court on the government’s motion to enforce the appeal waiver contained in defendant’s plea agreement. The motion is filed pursuant to *United States v. Hahn*, 359 F.3d 1315 (10th Cir. 2004) (en banc).

In response, defendant concedes that the government’s motion is well taken and that the appeal should be dismissed.

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

Accordingly, the government's motion is GRANTED, and the appeal is DISMISSED. The mandate shall issue forthwith.

ENTERED FOR THE COURT
PER CURIAM