

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

December 9, 2008

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

NOE ANDRADE-LOPEZ,

Defendant-Appellant.

No. 08-4136
(D.C. No. 2:06-cr-00852-TS-1)
(D. Utah)

ORDER AND JUDGMENT*

Before **HARTZ, TYMKOVICH** and **GORSUCH**, Circuit Judges.

This matter is before the court on the government's motion to enforce the appeal waiver contained in defendant Noe Andrade-Lopez's plea agreement. The motion was filed pursuant to *United States v. Hahn*, 359 F.3d 1315 (10th Cir. 2004) (en banc) (per curiam). Defendant, through counsel, filed a response to the motion to enforce conceding that there are no meritorious grounds upon which he

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

can urge denial of the government's motion to enforce the appeal waiver. Based on our review of the record, we are satisfied that the appeal is within the scope of the appeal waiver, that the waiver was knowing and voluntary, and that enforcing the waiver would not result in any miscarriage of justice.

Accordingly, the government's motion is GRANTED, and the appeal is DISMISSED.

ENTERED FOR THE COURT
PER CURIAM