

January 13, 2009

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff- Appellee,

v.

FERNANDO VASQUEZ-MURILLO,
a/k/a Fernando Vasquez-Moreo, a/k/a
Fernando Vasquez, a/k/a Hosea
Cervantes,

Defendant- Appellant.

No. 08-4174
(D.C. No. 2:08-CR-00425-TC-1)
(D. Utah)

ORDER AND JUDGMENT*

Before **KELLY, LUCERO**, and **GORSUCH**, 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

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

because the appeal falls within the scope of the appeal waiver, defendant knowingly and voluntarily waived his appellate rights, and enforcing the waiver would not result in a miscarriage of justice. *See id.* at 1325.

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

ENTERED FOR THE COURT
PER CURIAM