

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

January 23, 2017

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

XAVIER JORGE GUERRERO,
a/k/a Chico,

Defendant - Appellant.

No. 16-6298
(D.C. No. 5:15-CR-00093-M-8)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **McHUGH, EBEL**, and **O'BRIEN**, Circuit Judges.

Xavier Jorge Guerrero accepted a plea agreement and pleaded guilty to one count of conspiring to launder money in violation of 18 U.S.C. § 1956(h). He was sentenced to 27 months of imprisonment, within the Sentencing Guidelines range. Although the plea agreement contained an appeal waiver, Mr. Guerrero appealed. The government moves to enforce the appeal waiver under *United States v. Hahn*, 359 F.3d 1315, 1328 (10th Cir. 2004) (en banc) (per curiam).

* This panel has determined unanimously that oral argument would not materially assist in 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

Under *Hahn*, we consider “(1) whether the disputed appeal falls within the scope of the waiver of appellate rights; (2) whether 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. We need not address a *Hahn* factor that the appellant does not contest. *See United States v. Porter*, 405 F.3d 1136, 1143 (10th Cir. 2005).

In his response to the government’s motion, Mr. Guerrero informs the court that he does not oppose the motion. Further, he has not contested any of the *Hahn* factors. Accordingly, the motion to enforce is granted, and this matter is terminated.

Entered for the Court
Per Curiam