

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

March 15, 2017

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DETREK MANCHEL TUCKER,

Defendant - Appellant.

No. 16-6310
(D.C. Nos. 5:10-CR-00056-F-1 and
5:14-CV-00183-F)
(W.D. Okla.)

ORDER RESCINDING CERTIFICATE OF APPEALABILITY*

Before **PHILLIPS, McKAY**, and **McHUGH**, Circuit Judges.

On February 22, 2017, we issued an *Order Denying in Part and Granting in Part Certificate of Appealability*, in which we granted a certificate of appealability as to “[w]hether, post-*Johnson* [*v. United States*, 135 S. Ct. 2551 (2015)], Mr. Tucker’s conviction under Oklahoma law for discharge of a firearm into a dwelling constitutes a crime of violence under U.S.S.G. § 4B1.2(a).” That same day, we issued an order appointing counsel to represent Mr. Tucker, and setting a supplemental briefing schedule.

On March 6, 2017, the Supreme Court issued its opinion in *Beckles v. United States*, __S. Ct.__, 2017 WL 855781 (March 6, 2017). In light of that opinion, we have

* This order is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

determined that the aforementioned certificate of appealability was improvidently granted. Accordingly, we **RESCIND** the certificate of appealability issued on February 22, 2017, and **DISMISS** this appeal.

Entered for the Court

Carolyn B. McHugh
Circuit Judge