

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 5, 2014

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROGELIO AMADA LAMAS,

Defendant - Appellant.

No. 14-3218
(D.C. No. 2:12-CR-20119-CM-2)
(D. Kan.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, **O'BRIEN**, and **BACHARACH**, Circuit Judges.

After accepting a plea agreement that included a waiver of his right to appeal, Rogelio Amada Lamas pleaded guilty to one count of conspiracy to distribute or possess with intent to distribute more than 50 grams of methamphetamine. Notwithstanding the appeal waiver, Mr. Lamas has filed a notice of appeal. The government has moved to enforce the waiver. *See United States v. Hahn*, 359 F.3d 1315, 1328 (10th Cir. 2004) (en banc) (per curiam).

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

Mr. Lamas's lawyer has filed a response to the government's motion to enforce in which he states that after consultation with Mr. Lamas and following his "review of the applicable statutory and case law, and in the belief that the dismissal of [the] appeal does not affect [Mr. Lamas's] ability to file a motion under 28 U.S.C. § 2255 asserting a claim of ineffective assistance of counsel in connection with his guilty plea or [appeal] waiver," Mr. Lamas "withdraws his objection to the government's Motion for Enforcement of Appeal Waiver." Resp. at 1.

The motion to enforce is granted and this matter is dismissed.

Entered for the Court
Per Curiam