

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

February 1, 2019

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FILIP LUCIAN SIMION,

Defendant - Appellant.

No. 18-1405
(D.C. No. 1:16-CR-00161-RBJ-4)
(D. Colo.)

ORDER AND JUDGMENT*

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

Filip Lucian Simion pleaded guilty to one count of conspiracy to import MDMA (3,4-methylenedioxy-methamphetamine) into the United States and one count of money laundering. He was sentenced to serve 132 months in prison. Although his plea agreement contained a waiver of his appellate rights, he filed a notice of appeal. The government has moved to enforce the appeal waiver in the plea agreement pursuant to *United States v. Hahn*, 359 F.3d 1315 (10th Cir. 2004) (en banc) (per curiam).

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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. The government asserts that all of the *Hahn* conditions have been satisfied because: (1) Mr. Simion’s appeal is within the scope of the appeal waiver; (2) he knowingly and voluntarily waived his appellate rights; and (3) enforcing the waiver would not result in a miscarriage of justice.

In response to the government’s motion, Mr. Simion states “that the government’s Motion to Enforce Appeal Waiver is well-taken, and [he] does not contest it.” Resp. at 1. He “requests this Court enter an order granting the Motion and take any further steps necessary to adjudicate this appeal.” *Id.* Accordingly, we grant the government’s motion to enforce the appeal waiver and dismiss the appeal.

Entered for the Court
Per Curiam