

**August 26, 2008**

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

**Elisabeth A. Shumaker**  
**Clerk of Court**

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

BENJAMIN ARCHULETA,

Defendant-Appellant.

No. 08-4037  
(D.C. No. 2:05-CR-00676-DB-1)  
(D. Utah)

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**ORDER AND JUDGMENT\***

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Before **KELLY, LUCERO**, and **TYMKOVICH**, Circuit Judges.

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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 and that the appeal should be dismissed.

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

Accordingly, the government's motion is GRANTED, and the appeal is DISMISSED. The mandate shall issue forthwith.

ENTERED FOR THE COURT  
PER CURIAM