

UNITED STATES COURT OF APPEALS April 24, 2009
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RODERICK DESHON RICHARDS,

Defendant-Appellant.

No. 08-6279
(D.C. No. 05:07-CR-00314-C-2)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **BRISCOE**, **HARTZ**, and **TYMKOVICH**, Circuit Judges.

This matter is before the court on the government's motion to enforce the appeal waiver contained in defendant Roderick Deshon Richards' plea agreement. The motion is filed pursuant to *United States v. Hahn*, 359 F.3d 1315 (10th Cir. 2004) (en banc) (per curiam). Defendant's counsel filed a response to the motion to enforce stating his belief that there are no meritorious grounds upon which

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

defendant can urge denial of the government's motion to enforce the appeal waiver, and he requested permission to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967) (authorizing counsel to request permission to withdraw where counsel conscientiously examines a case and determines that an appeal would be wholly frivolous). This court then gave defendant an opportunity until April 9, 2009, to file a pro se response to the government's *Hahn* motion. To date, defendant has not filed a response to the motion to enforce the plea agreement.

Accordingly, the government's motion is GRANTED, the appeal is DISMISSED, and defense counsel's motion to withdraw is DENIED as moot.

ENTERED FOR THE COURT
PER CURIAM