

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

March 23, 2011

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EFREM ZEMBLISH HARRIS,

Defendant - Appellant.

No. 10-5064
(D.C. No. 4:02-CR-00088-CVE-1)
(N.D. Okla.)

ORDER AND JUDGMENT*

Before **BRISCOE**, Chief Circuit Judge, **TACHA**, and **O'BRIEN**, Circuit Judges.

In 2004, we affirmed Efrem Zemblish Harris' drug related convictions and resulting life sentence. *United States v. Harris*, 369 F.3d 1157 (10th Cir. 2004). Since then he has repeatedly filed meritless post-conviction motions and appeals. Consistent

* The parties have waived oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). This case is submitted for decision on the briefs.

This order and judgment is an unpublished decision, not binding precedent. 10th Cir. R. 32.1(A). Citation to unpublished decisions is not prohibited. Fed. R. App. 32.1. It is appropriate as it relates to law of the case, issue preclusion and claim preclusion. Unpublished decisions may also be cited for their persuasive value. 10th Cir. R. 32.1(A). Citation to an order and judgment must be accompanied by an appropriate parenthetical notation – (unpublished). *Id.*

with his past practices, he now appeals¹ from the District Court's dismissal of his latest motion, which amounted to a request for sentence modification.

Harris tried to persuade the District Court he was entitled to be resentenced under 18 U.S.C. § 3559(c)(7). In a clear, cogent, and correct Opinion and Order the court dismissed for lack of jurisdiction. Like most of his other filings this frivolous appeal abuses the court process, justifying summary disposition.

AFFIRMED.

Entered by the Court:

Terrence L. O'Brien
United States Circuit Judge

¹ Since Harris is pro se we construe his pleadings and papers liberally but do not serve as his advocate. *See Gallagher v. Shelton*, 587 F.3d 1063, 1067 (10th Cir. 2009).