

UNITED STATES COURT OF APPEALS **January 21, 2015**
TENTH CIRCUIT
Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MICHAEL PATRICK CORRIGAN,
also known as Pat Corrigan,

Defendant-Appellant.

No. 14-1152

(D. of Colo.)

(D.C. No. 1:12-CR-00221-SJJ-1)

ORDER AND JUDGMENT*

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

Michael Patrick Corrigan is currently serving a 56-month sentence after pleading guilty to four counts of mail fraud in violation of 18 U.S.C. § 1341 and 18 U.S.C. § 2. Mr. Corrigan appeals the district court's judgment and sentence, claiming that the district court failed to make a clear and independent ruling as required by Federal Rule of Criminal Procedure 32(i)(3)(B) on the disputed issue of the amount of loss attributable to Mr. Corrigan's fraud. The government agrees and also asks us to remand to the district court for resentencing. After a

* This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata and collateral estoppel.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

careful review of the record, we agree there was not a “clear and independent ruling by the district court on [this] critical disputed fact” and remand is necessary. *United States v. Williams*, 374 F.3d 941, 947 (10th Cir. 2004); *see also United States v. Schmidt*, 244 F. App’x 902, 906–07 (10th Cir. 2007) (finding the district court accepted the presentence investigation report’s findings on the disputed issue of loss amount without independent inquiry and remanding for resentencing).

Accordingly, exercising our jurisdiction pursuant to 28 U.S.C. §§ 1291 and 3742(a), we REMAND for further proceedings, with instructions to vacate the sentence and resentence in accordance with this order and judgment.

ENTERED FOR THE COURT,

Timothy M. Tymkovich
Circuit Judge