

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

April 23, 2019

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE SANDOVAL-VALADEZ,

Defendant - Appellant.

No. 18-3231
(D.C. No. 6:08-CR-10223-JWB-1)
(D. Kan.)

ORDER AND JUDGMENT*

Before **BRISCOE**, **McHUGH**, and **CARSON**, Circuit Judges.

Jose Sandoval-Valadez pleaded guilty to two counts of aggravated identity theft, in violation of 18 U.S.C. § 1028A. He was sentenced to 48 months' imprisonment, to run consecutively to an Arizona state court sentence of 12 years and 11 months that he is currently serving. Although the plea agreement contained an appeal waiver, Mr. Sandoval-Valadez appealed. The government moves to enforce the appeal waiver under *United States v. Hahn*, 359 F.3d 1315, 1328 (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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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. Mr. Sandoval-Valadez’s counsel filed a response to the government’s motion, stating a belief that there are no non-frivolous grounds to oppose the motion to enforce the appeal waiver and requesting permission to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967) (authorizing counsel to request permission to withdraw where counsel determines that appeal would be wholly frivolous). Mr. Sandoval-Valadez then filed a pro se response stating that the government’s motion to enforce the appeal waiver should be granted.

We have independently reviewed the parties’ filings and the record, and we conclude that the requirements for enforcing the appeal waiver under *Hahn* have been satisfied. Accordingly, we grant the motion to enforce the appeal waiver, grant counsel’s motion to withdraw, and dismiss the appeal.

Entered for the Court
Per Curiam