

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 23, 2024

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEVONTE HOLSTON,

Defendant - Appellant.

No. 23-6092
(D.C. No. 5:23-CR-00160-HE-1)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **HOLMES**, Chief Judge, **MORITZ**, and **CARSON**, Circuit Judges.

A jury convicted Devonte Holston of one count of indecent exposure in violation of 21 Okla. Stat. § 1021(A)(1), as assimilated by federal law pursuant to 18 U.S.C. § 13(a). The district court sentenced Mr. Holston to 24 months' imprisonment to be served consecutively to a sentence he was already serving followed by two years of supervised release. The district court ordered Mr. Holston

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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.

to register as a sex offender in Oklahoma and to participate in a sex offender treatment program if so directed by his probation officer. Mr. Holston appeals.

Pursuant to *Anders v. California*, 386 U.S. 738, 744 (1967), Mr. Holston’s counsel submits that any appeal is wholly frivolous and moves to withdraw. Under *Anders*, this court “must . . . conduct a full examination of the record to determine whether defendant’s claims are wholly frivolous. If the court concludes after such an examination that the appeal is frivolous, it may grant counsel’s motion to withdraw and may dismiss the appeal.” *United States v. Calderon*, 428 F.3d 928, 930 (10th Cir. 2005) (internal citation omitted). Counsel’s *Anders* brief discusses in candid detail the indictment return, trial (including the admission of Fed. R. Ev. 404(b) evidence), sentence, and imposition of supervised release conditions. Although Mr. Holston received two extensions of time to do so, he did not file a response to the *Anders* brief.

Having conducted a full examination of the record, we conclude there are no non-frivolous issues upon which Mr. Holston has a basis for appeal. We grant counsel’s motion to withdraw and dismiss the appeal.

Entered for the Court

Nancy L. Moritz
Circuit Judge