

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 24, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANDRE J. TWITTY,

Defendant - Appellant.

No. 25-1323
(D.C. No. 1:19-CR-00344-RBJ-1)
(D. Colo.)

ORDER AND JUDGMENT*

Before **HARTZ**, **EID**, and **CARSON**, Circuit Judges.

Petitioner Andre Twitty appeals the district court's denial of his petition for a writ of *coram nobis* challenging his conviction. He argues that his conviction resulted in a miscarriage of justice because he should not have been prosecuted under a state statute through the Assimilated Crimes Act, 18 U.S.C. § 13. He urges this court to vacate his conviction and sentence and order an evidentiary hearing. Exercising

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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.

jurisdiction under 28 U.S.C. § 1291, we affirm the district court’s dismissal of his petition.

In 2019 Petitioner was indicted for threatening a Bureau of Prisons officer at a federal prison in Florence, Colorado. He was charged under the Assimilated Crimes Act with violating Colorado’s antistalking statute. He was convicted by a jury and the court sentenced him to 60 months’ imprisonment and three years of supervised release.

Petitioner has repeatedly challenged the use of the Assimilated Crimes Act in his prosecution, and he has been repeatedly rebuffed, including by this court, which rejected the challenge both on direct appeal, *see United States v. Twitty*, 859 F. App’x 310 (10th Cir. 2021), and in proceedings under 28 U.S.C. § 2255, *see United States v. Twitty*, No. 22-1182, 2023 WL 2126711, at *1 (10th Cir. Feb. 21, 2023).

Upon release from custody, Petitioner filed the *coram nobis* petition before us. The district court dismissed the petition. On appeal Petitioner raises only arguments challenging his prosecution under the Assimilated Crimes Act.

We **AFFIRM** the dismissal of the petition. Our precedent is clear: We must reject a petition for a writ of *coram nobis* if (as here) “the claim was raised or could have been raised on direct appeal [or] through a § 2255 motion.” *United States v. Salgueido*, No. 25-2088, 2026 WL 2221619, at *4 (10th Cir. Aug. 3, 2026).

We **DENY** the Petitioner's motion to proceed *in forma pauperis*.

Entered for the Court

Harris L Hartz
Circuit Judge