

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 23, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FABIAN MATTHEW GONZALES,

Defendant - Appellant.

No. 26-6085
(D.C. No. 5:25-CR-00416-D-1)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **MATHESON, BACHARACH**, and **PHILLIPS**, Circuit Judges.**

This matter is before the court on the parties' *Joint Motion for Remand* in which they request that the court remand this appeal so the district court may consider Appellant's sentence in light of *United States v. Arnett*, 181 F.4th 1111 (10th Cir. 2026). Upon consideration and review of the record, the court:

A. Grants the motion and vacates the district court's judgment;

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

** Because this matter is being decided on a *Joint Motion to Remand* this panel has determined unanimously that oral argument would not materially assist in the determination of the appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

- B. Remands this case to the district court to consider Mr. Gonzales' sentence
in light of *Arnett*; and
- C. Directs the Clerk to issue the mandate forthwith.

Entered for the Court

Per Curiam