

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

May 6, 2019

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CORNELIUS GRAHAM,

Defendant - Appellant.

No. 18-3136
(D.C. Nos. 6:16-CV-01173-JTM &
6:99-CR-10023-JTM-1)
(D. Kan.)

ORDER AND JUDGMENT*

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

This matter comes on for consideration of the *Motion of the United States for Summary Affirmance* and the response filed thereto by Defendant Cornelius Graham. The United States moves for summary affirmance of the district court’s dismissal of Mr. Graham’s 28 U.S.C. § 2255 motion based on this court’s recent published decision in *United States v. Pullen*, 913 F.3d 1270 (10th Cir. 2019), *en banc rev. denied* April 15, 2019. While Mr. Graham does not dispute that *United States v. Greer*, 881 F.3d 1241 (10th Cir. 2018), and *Pullen* control the outcome of this appeal

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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

and does not contest summary affirmance of the district court's judgment, he reserves the right to petition the Supreme Court of the United States for certiorari review.

Accordingly, the government's motion for summary affirmance is granted. The judgment of the district court is **AFFIRMED**.

Entered for the Court
Per Curiam