

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

October 18, 2019

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES EARLEY,

Defendant - Appellant.

No. 19-1239
(D.C. No. 1:18-CR-00570-PAB-1)
(D. Colo.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, Chief Judge, **HOLMES** and **PHILLIPS**, Circuit Judges.

James Earley pleaded guilty to one count of concealment of an event affecting entitlement to social security benefits. The district court sentenced him to three years' probation. Although Mr. Earley's plea agreement included a waiver of his right to appeal, he filed this appeal. The government has moved to enforce the appeal waiver under *United States v. Hahn*, 359 F.3d 1315 (10th Cir. 2004) (en banc) (per curiam). Through his counsel, Mr. Earley concedes that the appeal waiver bars this appeal and no exception set forth in *Hahn* applies. Based on this concession and

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

our independent review of the record, we grant the government's motion and dismiss the appeal.

Entered for the Court
Per Curiam