

November 23, 2011

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

OLIMPIU CONSTANTINE NEDELUCU;

SILVIU LUCRETIU NEDELUCU,

Defendants–Appellants.

Nos. 11-4154 & 11-4155
(D.C. Nos. 2:05-CR-00330-TS-1 &
2:05-CR-00330-TS-2)
(D. Utah)

ORDER AND JUDGMENT*

Before **O’BRIEN, McKAY**, and **TYMKOVICH**, Circuit Judges.

After examining the briefs and the 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). This case is therefore ordered submitted without oral argument.

Defendants, appearing pro se, appeal the denial of their motions to seal or expunge the record of a 2005 case in which they were both convicted of entering an aircraft or aircraft area by fraudulent means in violation of 18 U.S.C. § 1036(a). In these motions, Defendants expressed remorse and offered evidence of their difficulties arising from

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

having their convictions on record. The district court denied their requests on the ground that since Defendants' felony convictions had not been set aside, the district court did not have ancillary jurisdiction to seal the record on purely equitable grounds. *See United States v. Pinto*, 1 F.3d 1069, 1070 (10th Cir. 1993). Defendants appealed. This court consolidated their appeals.

After a thorough review of the record, we **AFFIRM** the dismissal of Defendants' motions for substantially the same reason given by the district court.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge