

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 9, 2015

**Elisabeth A. Shumaker
Clerk of Court**

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

BILLY JOE LAVERTY,

Defendant – Appellant.

No. 15-5083
(D.C. No. 4:15-CR-00074-CVE-1)
(N.D. Okla.)

ORDER AND JUDGMENT*

Before **HARTZ**, **GORSUCH**, and **MORITZ**, Circuit Judges.

Billy Joe Laverty was charged with two counts of Interference with Commerce by Robbery, Carjacking, and Discharging a Firearm During and in Relation to a Crime of Violence. He entered into a plea agreement with the government, which contained a waiver of his appellate rights. After he pleaded guilty pursuant to the agreement, he was sentenced to a stipulated sentence of 300 months of imprisonment. Despite the appellate waiver in his plea agreement, Mr. Laverty filed a notice of

* This panel has determined that oral argument would not materially assist 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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.

appeal. The government then filed a motion to enforce the appellate waiver in Mr. Laverty's plea agreement consistent with the procedures outlined in our decision in *United States v. Hahn*, 359 F.3d 1315, 1328 (10th Cir. 2004).

Under *Hahn*, we consider: “(1) whether the disputed appeal falls within the scope of the waiver of appellate rights; (2) whether the defendant knowingly and voluntarily waived his appellate rights; and (3) whether enforcing the waiver would result in a miscarriage of justice” *Id.* at 1325. Mr. Laverty has filed a response to the motion to enforce in which he “concedes that, under the standard announced in [*Hahn*], the appellate waiver in his plea agreement is enforceable.” *Aplt. Resp.* at 1. Accordingly, we grant the government's motion and dismiss this appeal.

Entered for the Court
Per Curiam