

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 29, 2016

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JONATHAN EARL OLAVESON,

Defendant - Appellant.

No. 16-8057
(D.C. No. 2:13-CR-00235-SWS-1)
(D. Wyo.)

ORDER AND JUDGMENT*

Before **KELLY, HOLMES, and MORITZ**, Circuit Judges.

Jonathan Olaveson appeals the district court's denial of his motion for relief pursuant to a writ of coram nobis.¹ But Olaveson remains in custody for the conviction he attacks. And we have held that "a prisoner may not challenge a sentence or conviction for which he is currently in custody through a writ of coram

* After examining Olaveson's brief 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). 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel, but it may be cited for its persuasive value. *See* Fed. R. App. P. 32.1; 10th Cir. R. 32.1.

¹ Because Olaveson proceeds *pro se*, we liberally construe his filings. But we won't act as his advocate. *See Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005).

nobis.” *United States v. Torres*, 282 F.3d 1241, 1245 (10th Cir. 2002). Thus, we affirm the denial of his motion.

We grant Olaveson’s motion to proceed in forma pauperis and remind him of his obligation to continue making payments until the filing fee is paid in full. *See* 28 U.S.C. § 1915(b). But we deny Olaveson’s motion for default judgment based on the government’s failure to file a response brief. *See* Fed. R. App. P. 31(c) (limiting consequence of failing to file appellee brief to being excluded from oral argument); *Dametz v. Romer*, No. 93-1213, 1993 WL 495066, at *2 (10th Cir. Dec. 1, 1993) (unpublished) (concluding appellee is “entitled to rest on the district court’s disposition” without filing brief).

Entered for the Court

Nancy L. Moritz
Circuit Judge