

APPENDIX A.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 2 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ROLAND ADAMS, AKA Peter Brown,
AKA Harold Whiteker,

Defendant-Appellant.

No. 20-10291

D.C. No. 2:02-cr-00257-WBS-1
Eastern District of California,
Sacramento

ORDER

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

Appellee's motion to dismiss this appeal in light of the valid appeal waiver (Docket Entry No. 5) is granted. As part of his waiver, appellant agreed to give up his right to appeal any order of restitution, as well as the right to bring any post-conviction attack on his sentence. Under the terms of this waiver, this appeal of the district court's denial of appellant's motion to vacate the restitution order is barred. *See United States v. Harris*, 628 F.3d 1203, 1205 (9th Cir. 2011) (knowing and voluntary appeal waiver whose language encompasses the right to appeal on the grounds raised is enforceable). Appellant's arguments against enforcement of the waiver are untimely and have been previously rejected.

Appellant's motion for designation of record (Docket Entry No. 8) is denied

as moot.

DISMISSED.

APPENDIX B.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.
15 ROLAND ADAMS,
16 Defendant.

No. 2:02-cr-00257 WBS

ORDER

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19 On August 5, 2020, defendant Roland Adams filed a
20 Motion to Vacate or Set Aside Restitution, which he has
21 supplemented with several additional filings. (Docket Nos. 377,
22 380, 381, 382, 383, 385.) Defendant apparently seeks to vacate
23 his sentence to the extent that he was ordered to pay restitution
24 in the amount of \$1,201,092.90 pursuant to his convictions for
25 conspiracy to commit mail fraud and wire fraud under 18 U.S.C. §
26 371 and conspiracy to launder money under 18 U.S.C. § 1956(h).

27 The court will deny defendant's motion. Judge Edward

28 J. Garcia, prior to reassignment of this case to the undersigned,

1 determined that defendant's plea agreement and guilty plea were
2 valid and that his appellate waiver was valid after determining,
3 among other things, that his counsel was not ineffective. (See
4 Docket No. 355.) Moreover, in the plea agreement, defendant
5 stated that he agreed that the preliminary restitution figure was
6 \$2,124.762.82, subject to final determination after the
7 presentence report investigation, and defendant agreed to a
8 factual basis stating that if all victims were called to testify
9 at trial, the government could present evidence of actual losses
10 in excess of \$2.1 million -- both figures significantly higher
11 than the ultimate restitution amount ordered by the court.
12 (Docket No. 355 at 13, 22.)¹ Defendant has presented no argument
13 or evidence that warrant disturbing Judge Garcia's
14 determinations.

15 IT IS THEREFORE ORDERED that defendant's Motion to
16 Vacate or Set Aside Restitution (Docket No. 377) be, and the same
17 hereby is, DENIED.²

18 Dated: September 11, 2020


19 WILLIAM B. SHUBB
20 UNITED STATES DISTRICT JUDGE

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23
24 ¹ The probation officer's recommendation for restitution
25 in the amount of \$1,201,092.90 was also supported by the
"Declaration of Victim Losses" collected by the officer. (See
Docket No. 104.)

26 ² To the extent that any of defendant's other filings
27 related to this motion could be construed as separate motions
28 (Docket No. 380, 381, 382, 383, and 385), they are similarly
DENIED.

APPENDIX C.

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FOR THE NINTH CIRCUIT

MAY 26 2021

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UNITED STATES OF AMERICA,

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ORDER

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

We treat appellant's petition for rehearing and rehearing en banc (Docket Entry No. 14) as a combined motion for panel reconsideration and reconsideration en banc. So treated, the motion for panel reconsideration is denied and the motion for reconsideration en banc is denied on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

Appellant's motion (Docket Entry No. 12) to allow late filing of his motion for reconsideration is denied as unnecessary because the motion was timely.

Appellant's motion (Docket Entry No. 13) for appointment of counsel is denied as moot.