

# APPENDIX “A”

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

NOV 14 2023

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RODWICK F. ABADAM,

Defendant-Appellant.

No. 22-10254

D.C. No. 1:22-cr-00009-HG-1  
District of Hawaii,  
Honolulu

ORDER

Before: SILVERMAN, WARDLAW, and TALLMAN, Circuit Judges.

Appellee's motion to dismiss this appeal in light of the valid appeal waiver (Docket Entry No. 28) is granted. *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). Contrary to appellant's contention, the district court's application of a sentencing enhancement pursuant to U.S.S.G. § 2D1.1(b)(1) did not render his sentence unconstitutional under the Second Amendment. *See United States v. Alaniz*, 69 F.4th 1124, 1130 (9th Cir. 2023) (holding that § 2D1.1(b)(1) is constitutional under the two-part test set forth by *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022)). Moreover, even if this court recognized a miscarriage of justice exception to the enforcement of an appellate waiver, no such exception applies here.

**DISMISSED.**