

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

October 8, 2025

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALFREDO JOAQUIN SOTO, a/k/a
Joaquin Alfredo Soto,

Defendant - Appellant.

No. 25-6072
(D.C. No. 5:24-CR-00192-PRW-2)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **MATHESON, BACHARACH, and PHILLIPS**, Circuit Judges.

Pursuant to a plea agreement, Alfredo Joaquin Soto pleaded guilty to possession with the intent to distribute 50 grams or more of a mixture or substance containing methamphetamine, in violation of 21 U.S.C. § 841(a)(1). He was sentenced to 210 months in prison and four years of supervised release. He then filed this appeal. His plea agreement contains an appeal waiver that the government now moves to enforce. *See United States v. Hahn*, 359 F.3d 1315, 1328 (10th Cir. 2004) (en banc) (per curiam).

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

In evaluating such a motion, 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. Soto, through counsel, has acknowledged that the appeal waiver is enforceable and therefore does not oppose the government’s motion. Our independent review confirms the enforceability of the appeal waiver. Accordingly, we grant the government’s motion to enforce the appeal waiver and dismiss the appeal.

Entered for the Court

Per Curiam

Appendix B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

ALFREDO JOAQUIN SOTO,

Defendant–Appellant.

District Court No. 5:24-cr-00192-PRW-2
(W.D. Okla.)

Court of Appeals No. 25-6072

Response to Motion to Enforce Appellate Waiver

Alfredo Joaquin Soto, Defendant–Appellant, by his attorney, Gregory M. Acton, hereby responds to the Government’s Motion to Enforce Appellate Waiver, as follows:

1. After a thorough review of the plea agreement, the transcript of the change of plea hearing, and the transcript of the sentencing hearing, the undersigned has discerned no good faith basis for opposing the Motion to Enforce Appellate Waiver.

2. Mr. Soto agrees that the Court must consider the following factors in determining whether to enforce an appellate waiver: “(1) whether the disputed appeal falls within the scope of the waiver of appeal 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.” *United States v. Hahn*, 359 F.3d 1315, 1325 (10th Cir. 2004).

Appendix A

3. Mr. Soto pleaded guilty and admitted guilt. He wishes only to appeal the reasonableness of his sentence, which was imposed at the high end of the Guidelines range.

Accordingly, this appeal was contemplated by his waiver of the right to appeal his

sentence . . . and the manner in which the sentence in which the sentence is determined, including its procedural reasonableness. If the sentence is above the advisory Guidelines range determined by the Court to apply to Defendant's case, this waiver does not include Defendant's right to appeal the substantive reasonableness of Defendant's sentence.

(ROA Vol. 1 at 62) (emphasis added). The Guideline sentencing range was 168 to 210 months, and the district court imposed a sentence of 210 months. (Vol. 1 at 70; Vol. 2 at 36, 47.)

4. Counsel reviewed the transcript of the sentencing hearing and found in the plea colloquy that Mr. Soto had admitted that he understood the following:

[B]y entering into the plea agreement, you have waived or given up your right to appeal or collaterally challenge your judgment, conviction, and sentence except you retain the right to appeal the substantive reasonableness only of a sentence that [the judge] might impose above the sentencing guideline range.

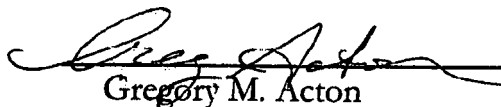
(Vol. 2 at 17.) He further stated that no one had forced him or threatened him to sign the plea agreement and that he understood the terms of the agreement. (*Id.* at 16.) Mr. Soto

also responded that he had had the "opportunity to read and discuss the plea agreement with [his] lawyer before [he] signed it." (*Id.* at 15.) Accordingly, no good faith basis appears from the record for challenging that Mr. Soto knowingly and voluntarily waived his appeal rights."

5. Finally, in imposing sentence, the court did not rely upon an impermissible factor, such as the defendant's race. The plea agreement and plea waiver appear reasonable, and no fault is to be found in the legal representation Mr. Soto received in negotiating the waiver. The sentence was below the statutory maximum and within the guideline range. And, the waiver was not otherwise unlawful. Accordingly, the undersigned discovered no good faith argument that enforcement of the waiver would result in a miscarriage of justice. *See United States v. Polly*, 630 F.3d 991, 1001 (10th Cir. 2011) (identifying these factors to consider).

WHEREFORE, Mr. Soto's court-appointed counsel has been unable to find a good faith argument against enforcement of the appeal waiver, and accordingly, the Government's Motion to Enforce is unopposed.

Respectfully submitted,



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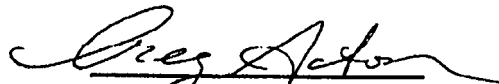
Appendix A

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing Response to Motion to Enforce Appellate Waiver

- (1) all required privacy redactions have been made per 10th Cir. R. 25.5;
- (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents;
- (3) the digital submissions have been scanned for viruses with the most recent version of a commercial scanning program, Bitdefender Internet Security, build 27.0.54.272 updated October 1, 2025, and according to the program are free of viruses.

Respectfully submitted,


Gregory M. Acton

Appendix A