



United States v. Matlock

2024 | Cited 0 times | North Dakota Supreme Court | March 14, 2024

Appellate Case: 23-5117 Document: 010111015760 Date Filed: 03/14/2024 Page: 1 FILED United States Court of Appeals UNITED STATES COURT OF APPEALS Tenth Circuit

FOR THE TENTH CIRCUIT March 14, 2024 _____ Christopher M. Wolpert Clerk of Court UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v. No. 23-5117 (D.C. No. 4:22-CR-00083-JFH-1) JESSE RAY MATLOCK, (N.D. Okla.)

Defendant - Appellant. _____

ORDER AND JUDGMENT* _____

Before PHILLIPS, EBEL, and McHUGH, Circuit Judges. _____

Jesse Ray Matlock pled guilty to three counts of strangulation of a spouse, one count of obstruction of justice, and one count of stalking. The district court sentenced Mr. Matlock to 120 months in prison, which was the stipulated sentence the parties agreed to in the plea agreement. Although he received the sentence he negotiated and although his plea agreement contained a waiver of his appellate rights, he filed a notice of appeal. The government then filed a motion to enforce the appeal waiver.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

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Mr. Matlock’s counsel filed a response to the motion pursuant to *Anders v.*

California, 386 U.S. 738 , 744 (1967), stating his belief “that there is no viable or

non-frivolous basis for opposing the Motion.” Resp. to Mot. at 5. We gave

Mr. Matlock the opportunity to file a pro se response to show why the appeal waiver

should not be enforced. His response was initially due on February 22, 2024, and we

sua sponte extended the deadline to March 11, 2024, but to date he has not filed a

response.

We will enforce an appeal waiver if (1) “the disputed appeal falls within” the

waiver’s scope; (2) “the defendant knowingly and voluntarily waived his appellate

rights”; and (3) enforcing the waiver would not “result in a miscarriage of justice.”

United States v. Hahn, 359 F.3d 1315 , 1325 (10th Cir. 2004) (en banc). The government

argues that all three of these conditions are met in this case.

Consistent with our obligation under *Anders*, we conducted an independent

review of the proceedings. See 386 U.S. at 744 . After doing so, we agree it would

be frivolous to oppose the government’s motion. We therefore grant the

government’s motion to enforce the appeal waiver and dismiss the appeal.

Entered for the Court Per Curiam

