

No. 19-3062

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

UNITED STATES OF AMERICA,

v.

STEVEN R. HENSON

On Appeal From The United States District Court
For The District of Kansas
Case No. 6:16-cr-10018
The Honorable J. Thomas Marten

APPELLANT'S SUPPLEMENTAL BRIEF

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Dr. Henson agrees with the government's concession of error in this case. Furthermore, Dr. Henson concedes that the decision in *Kahn II* does not affect his convictions on Counts 19 and 20.

As it is currently postured, Dr. Henson's case is materially indistinguishable from *United States v. Kahn*, No. 19-8054, 2023 WL 1487672 (10th Cir. Feb. 3, 2023) ("*Kahn II*"). As the government notes, the jury instructions issued in Dr. Henson's case are in all material sense indistinguishable from the jury instructions at issue in *Kahn II*.

The government's explanation for the basis of its concession in the latter half of its second supplemental brief is nearly identical to the arguments contained in Dr. Henson's draft response to the Court's second order for supplemental briefing. In light of the government's concession, Dr. Henson will not burden this Court with what would be essentially duplicate briefing.

If this Court has any additional reservations about reversing Dr. Henson's convictions on Counts 1-18 and 21-31, Dr. Henson would be happy to address those in supplemental briefing.

CONCLUSION

Based on the foregoing, Dr. Henson asks that this court vacate his conviction and remand to the district court for retrial.

Respectfully submitted,

By: /s/ Beau B. Brindley
/s/ Blair T. Westover
Attorneys for Defendant-appellant

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CERTIFICATIONS

Privacy Redactions

I certify that all required privacy redactions, if any, have been made.

Virus Scan

I further certify that the electronic submission was scanned for viruses with the most recent version of a commercial virus scanning program, and, according to the program, is free of viruses.

Respectfully submitted,

By: /s/ Beau B. Brindley
Attorney for Defendant-appellant

CERTIFICATE OF SERVICE

I, Beau B. Brindley, hereby certify that I caused a true and accurate copy of the attached Supplemental Brief of Defendant-Appellant Steven Henson to be served upon the government by electronically serving it through the CM/ECF system February 21, 2023.

Respectfully submitted,

By: /s/ Beau B. Brindley
Attorney for Defendant-appellant

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