

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-11197  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOE RILEY SLAUGHTER,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 6:99-CR-10-3  
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June 14, 2000

Before JOLLY, DAVIS, and STEWART, Circuit Judges.

PER CURIAM:\*

Joe Riley Slaughter appeals from his sentence for distribution of crack cocaine and aiding and abetting. He contends that the district court erred by failing to rule on his downward-departure motion. The Government argues that we lack jurisdiction to consider Slaughter's contention.

By adopting the Presentence Report, imposing a 151-month sentence, and explaining that the sentence was appropriate partly in light of Slaughter's criminal history (explicitly rejecting the reason Slaughter had offered in support of a downward

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

departure), the district court implicitly denied the motion. See *United States v. Como*, 53 F.3d 87, 90 (5th Cir. 1995). The record does not indicate that the district court mistakenly believed it lacked authority to downwardly depart; we lack jurisdiction to review the district court's implicit denial of Slaughter's downward-departure motion. *United States v. Landerman*, 167 F.3d 895, 899 (5th Cir. 1999).

APPEAL DISMISSED. 5TH CIR. R. 42.2.