

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-10906  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIAM EARL BROWN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:99-CR-187-1-R  
- - - - -

July 5, 2001

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:\*

William Brown was convicted of making a false statement in violation of 18 U.S.C. § 922(a)(6). He argues that the district court erred in denying his motion for a downward departure because of its mistaken belief that it was not authorized to do so.

We have jurisdiction to hear this appeal if the refusal to depart was premised on a mistaken conclusion that the guidelines do not permit such a departure, but we lack jurisdiction if the refusal was premised on a determination that a departure was not warranted under the facts of the case. United States v. Brace, 145

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

F.3d 247, 263 (5th Cir. 1998) (en banc); United States v. DiMarco, 46 F.3d 476, 477-78 (5th Cir. 1995). Because the court did not misapprehend its authority under the Sentencing Guidelines, we have no jurisdiction to hear this appeal. United States v. Landerman, 167 F.3d 895, 899 (5th Cir. 1999). Accordingly, the appeal is DISMISSED.