

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-40772  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LISA FONTENOT,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:01-CR-253-2  
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February 19, 2003

Before WIENER, EMILIO M. GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Lisa Fontenot (Fontenot) appeals the sentence imposed by the district court following her guilty-plea conviction for possession with intent to distribute and distribution of crack cocaine within 1,000 feet of a public school under 21 U.S.C. § 860. Fontenot argues that the district court erred in declining to depart further downward from the Sentencing Guidelines in imposing her sentence.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

"A district court has almost complete discretion to determine the extent of a departure under [U.S.S.G.] § 5K1.1," and that decision may be reviewed by this court only if "the district court was mistaken about its authority." United States v. Cooper, 274 F.3d 230, 248, 249 (5th Cir. 2001). In addition, "something in the record [must] indicate that the district court held such an erroneous belief." United States v. Yanez-Huerta, 207 F.3d 746, 748 (5th Cir. 2000) (internal quotation marks, alteration, and citation omitted).

The record does not show that the district court refused to depart further downward on Fontenot's sentence based upon a mistaken belief that it could not do so. Rather, the district court denied Fontenot's requested additional downward departure because it was not warranted. Because the district court did not misapprehend its authority under the Sentencing Guidelines, we lack jurisdiction to hear this appeal. Accordingly, Fontenot's appeal is DISMISSED.