

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-9109
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIAM RAY BROWN,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:92-CR-153-A
- - - - -
(January 6, 1994)

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:*

William Brown argues that the district court erred by refusing to grant the Government's motion for downward departure.

Because the language of U.S.S.G. § 5K1.1 is permissive, not mandatory, Brown is not entitled to downward departure as a matter of right. See United States v. Damer, 910 F.2d 1239, 1240 (5th Cir.), cert. denied, 498 U.S. 991 (1990). Therefore, application of downward departure is left to the sentencing

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

court's discretion and is reviewed only for an abuse of such discretion. Damer, 910 F.2d at 1240.

The district court refused a downward departure based on its finding that Brown was not completely truthful concerning the number of people involved in the crime and the amount of money he received. In determining Brown's sentence, the district court weighed his cooperation in the investigation against his concealment of information. The court sentenced Brown to the lower end of the guideline range in recognition of his cooperation. Because Brown's sentence reflected his cooperation, the district court did not abuse its discretion by denying downward departure. See Damer, 910 F.2d at 1241.

AFFIRMED