

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3399  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DANIEL HARO, III,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CR 93-38 F  
- - - - -  
(January 6, 1994)

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Daniel Haro appeals the district court's refusal to depart downward as an abuse of discretion. Haro argues that he established the existence of aggravating or mitigating circumstances which warranted downward departure; namely, that he had a legitimate expectation that he would be granted an extension of his surrender date in return for his continuing cooperation with the Drug Enforcement Administration, upon realizing an extension was not forthcoming he intended to

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

surrender and did not intend to abscond forever, and he was apprehended within two days of his surrender date. Given the existence of these circumstances, Haro contends that the district court's refusal to depart downward was an abuse of discretion.

The sentencing guidelines allow a trial judge to depart from the guidelines where aggravating or mitigating circumstances were not adequately considered by the Sentencing Commission in formulating the guidelines. 18 U.S.C. § 3553(b); U.S.S.G. § 5K2.0; United States v. Vela, 927 F.2d 197, 198 (5th Cir.), cert. denied, 112 S. Ct. 214 (1991). Departures from the guidelines are within the broad discretion of the district court. United States v. Adams, 996 F.2d 75, 78 (5th Cir. 1993). This Court will not review a district court's refusal to depart from the guidelines, unless the refusal was in violation of the law. United States v. Hatchett, 923 F.2d 369, 372 (5th Cir. 1991); United States v. Mueller, 902 F.2d 336, 346 (5th Cir. 1990).

Haro does not argue, and there is no indication of, a violation of law or that the district court held the mistaken belief that it was unable to depart; therefore, this Court will not review the district court's refusal to downwardly depart. See Adams, 996 F.2d at 79. Even were this Court to review the district court's refusal to depart, there was no abuse of discretion as Haro failed to establish circumstances mandating departure. For the foregoing reasons, Haro's sentence is AFFIRMED.