

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 00-3011

September Term, 2000

99cr00017-01

99cr00017-02

Filed On: November 1, 2000 [554058]

United States of America,
Appellee

v.

Martin Gomez-Melchor, *a/k/a* Subject 25, *a/k/a* Paisa,
a/k/a Pedro Marroquin-Gomez, *a/k/a* Carlos,
Appellant

Consolidated with 00-3013

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Ginsburg, Tatel, and Garland, Circuit Judges

J U D G M E N T

Upon consideration of appellant Gomez-Melchor's motion for expedited consideration, the record from the United States District Court for the District of Columbia, and the briefs filed by the parties, it is

ORDERED AND ADJUDGED that appellants' sentences be affirmed. Because neither appellant requested a downward departure pursuant to United States v. Smith, 27 F.3d 649 (D.C. Cir. 1994), the district court's failure to depart downward is reviewable, if at all, for plain error. See United States v. Vizcaino, 202 F.3d 345, 348 (D.C. Cir. 2000); United States v. Klat, 156 F.3d 1258, 1267 (D.C. Cir. 1998). The record does not demonstrate that the district court misunderstood its authority to depart downward, and to the extent the record is silent or ambiguous, it was appellants' initial responsibility to ensure that the district court explained its reasoning for the record. See In re Sealed Case No. 98-3116, 199 F.3d 488, 490-91 (D.C. Cir. 1999); United States v. Pinnick, 47 F.3d 434, 439-40 (D.C. Cir. 1995). The court has determined that the issues presented occasion no need for an opinion. See Fed. R. App. P. 36; D.C. Cir. Rule 36(b). It is

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 00-3011

September Term, 2000

FURTHER ORDERED that the motion for expedited consideration be dismissed as moot.

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam