

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 00-3010

September Term, 2000

99cr00163-01

Filed On: February 1, 2001 [573478]

United States of America,
Appellee

v.

Jose A. Rosales,
Appellant

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

BEFORE: Sentelle, Henderson, and Rogers, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. 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

ORDERED AND ADJUDGED that appellant's sentence be affirmed. Prior to imposing its sentence, the district court considered and rejected appellant's arguments regarding a downward departure based on his status as a deportable alien. The district court recognized its discretion to grant a downward departure pursuant to United States v. Smith, 27 F.3d 649 (D.C. Cir. 1994), but declined to do so. The district court's decision is, therefore, unreviewable. See United States v. Stewart, 104 F.3d 1377, 1391 (D.C. Cir. 1997); United States v. Pinnick, 47 F.3d 434, 439 (D.C. Cir. 1995).

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