

NOT PRECEDENTIAL

THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-3270

UNITED STATES OF AMERICA

vs.

GERMAN DELGADO

Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

(D.C. Criminal No. 00-cr-00410)

District Judge: The Honorable Joseph A. Greenaway, Jr.

Submitted Under Third Circuit LAR 34.1(a)
June 7, 2002

BEFORE: NYGAARD, BARRY, and MAGILL, Circuit Judges.

(Filed: June 11, 2002)

OPINION OF THE COURT

NYGAARD, Circuit Judge.

Appellant, German Delgado, challenges the extent of the downward departure granted by the District Court in determining his sentence. The District Court concluded that Delgado was entitled to a downward departure based upon his substantial assistance. Nonetheless, the court decided that a three-month departure was all that was indicated because appellant had an extensive history as a drug dealer and because there was a substantial quantity of the drugs involved in this offense. In effect, appellant is arguing that the District Court should have departed a total of fifteen months below his applicable Guideline range instead of three months.

We do not have appellate jurisdiction to review a challenge to the District Court's discretionary decision, challenging the extent of a downward departure under U.S.S.G. 5K1.1. See *United States v. Torres*, 251 F.3d 138, 145 (3d Cir. 2001) (citing *United States v. Parker*, 902 F.2d 221, 222 (3d Cir.1990)). Thus, we will dismiss this appeal.

TO THE CLERK:

Please file the foregoing opinion.

/s/ Richard L. Nygaard
Circuit Judge