

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

December 18, 2019

Lyle W. Cayce
Clerk

No. 19-10282
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOHN PURIFOY,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:18-CR-277-1

Before WIENER, HAYNES, and COSTA, Circuit Judges.

PER CURIAM:*

Defendant-Appellant John Purifoy pleaded guilty to possession with intent to distribute a controlled substance in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C). At sentencing, the district court declined a requested downward departure and sentenced Purifoy to the guidelines sentence of 240 months of imprisonment and three years of supervised release. Purifoy timely appealed.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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We lack jurisdiction to review the denial of a downward departure unless the denial was based on the district court's mistaken belief that it lacked the authority to depart. *United States v. Lucas*, 516 F.3d 316, 350-51 (5th Cir. 2008); *United States v. Alaniz*, 726 F.3d 586, 627 (5th Cir. 2013).

The record does not indicate that the district court mistakenly believed that it could not grant the motion for a downward departure for lack of authority to depart from the Guidelines. Neither does Purifoy allege that the district court was unaware of such authority. Rather, the record reflects that the district court knew of its authority to grant the motion but concluded that the facts and circumstances of the case did not warrant a downward departure. As such, this court lacks jurisdiction to review the district court's denial of Purifoy's request for a downward departure. *See Lucas*, 516 F.3d at 350.

The judgment of the district court is **AFFIRMED**.