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United States Court of Appeals For the First Circuit

No. 01-1445

UNITED STATES,

Appellee,

v.

LORENZO WOODS,

Defendant, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

[Hon. Ernest C. Torres, U.S. District Judge]

Before

Boudin, Chief Judge,
Campbell, Senior Circuit Judge,
and Lipez, Circuit Judge.

Cynthia A. Vincent on brief for appellant.
Margaret E. Curran, United States Attorney, and Donald C. Lockhart, Assistant U.S. Attorney, on Motion for Summary Dismissal for appellee.

January 31, 2003

Per Curiam. Appellant Lorenzo Woods appeals from the sentence the district court imposed following his guilty plea to three cocaine base offenses under 21 U.S.C. § 841(a)(1) and § 846 and 18 U.S.C. § 2. On appeal, he asserts that the district court erroneously applied United States Sentencing Guideline § 2D1.1 at sentencing. In addition, he claims that the district court misunderstood its departure authority under Guideline § 4A1.3 and thus failed to grant his motion for a downward departure.

After careful review of the record, in particular the sentencing transcript, we conclude that the court properly applied the career offender guideline, § 4B1.1, at sentencing. To that extent, we affirm the sentence. We also agree with the United States that the district court denied the departure motion in an exercise of its discretion and not based on any misapprehension of authority. Thus, we may not review its decision. See United States v. DeLeon, 187 F.3d 60, 69 (1st Cir.), cert. denied, 528 U.S. 1030 (1999) ("It is well settled that 'no appeal lies from a discretionary refusal to depart' from the Sentencing Guidelines.") (citation omitted).

Affirmed.