

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-3071

September Term, 2002

01cr00433-01

Filed On: June 10, 2003 [753778]

United States of America,
Appellee

v.

Felton Cicero Abernathy,
Appellant

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

BEFORE: Edwards, Sentelle, and Garland, 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. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED and **ADJUDGED** that the district court's judgment be affirmed. The district court understood the facts in appellant's case and the nature of its authority to depart from the applicable guideline range, and exercised its discretion not to depart. Appellant's claim is, therefore, not reviewable on appeal. See United States v. Draffin, 286 F.3d 606, 609 (D.C. Cir. 2002); United States v. Sammoury, 74 F.3d 1341, 1343 (D.C. Cir. 1996); United States v. Hazel, 928 F.2d 420, 424-25 (D.C. Cir. 1991).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution 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