

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 01-3055

September Term, 2001

00cr00337-02

Filed On: February 6, 2002 [656455]

United States of America,
Appellee

v.

Kevin Wise,
Appellant

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

BEFORE: Edwards, Sentelle, and Henderson, 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. It is

ORDERED AND ADJUDGED that appellant's sentence be affirmed. The district court committed no error in denying appellant a downward adjustment for acceptance of responsibility, as appellant could have pled to the indictment but instead chose to go to trial. See, e.g., U.S.S.G. § 3E1.1, Application Note 2; United States v. Dozier, 162 F.3d 120, 127 (D.C. Cir. 1998). Furthermore, the court's discretionary denial of a downward departure for an overstatement of appellant's criminal history is not reviewable, as the court clearly understood its authority to depart. See, e.g., In re Sealed Case No. 98-3116, 199 F.3d 488, 490-91 (D.C. Cir. 1999).

Pursuant to D.C. Cir. Rule 36, this disposition will not be published.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