

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-2820

United States of America,	*	
	*	
Appellee,	*	Appeal from the United States
	*	District Court for the District
v.	*	of Nebraska.
	*	
Melissa R. Ortiz,	*	[UNPUBLISHED]
	*	
Appellant.	*	

Submitted: February 7, 2000

Filed: February 10, 2000

Before LOKEN, FAGG, and HANSEN, Circuit Judges.

PER CURIAM.

Melissa R. Ortiz appeals her sentence for conspiring to distribute methamphetamine. For reversal, Ortiz raises various challenges to the government's failure to move for a sentencing departure under U.S. Sentencing Guidelines Manual § 5K1.1, p.s. (1999), and 18 U.S.C. § 3553(e).

We reject these contentions. Ortiz did not complain at sentencing about the lack of a departure motion, the plea agreement preserved the government's discretion whether to move for departure, and Ortiz made no substantial threshold showing the

government acted irrationally, in bad faith, or based on an unconstitutional motive. See United States v. Kelly, 18 F.3d 612, 617-18 (8th Cir. 1994); United States v. Romsey, 975 F.2d 556, 558 (8th Cir. 1992); United States v. Oransky, 908 F.2d 307, 309 (8th Cir. 1990). As to Ortiz's sentencing-continuance argument, we note the district court granted her motion for a continuance.

We also reject Ortiz's contention that she should receive a downward departure under U.S. Sentencing Guidelines Manual § 5K2.0, p.s. (1999) based on her post-offense rehabilitation, youth, minor role, and parental obligations--a departure she did not seek at the time of her sentencing. Cf. United States v. Favara, 987 F.2d 538, 540 (8th Cir. 1993).

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.