

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

No. 99-3136

United States of America,

Appellee,

v.

Jose Lara, Jr.,

Appellant.

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* Appeal from the United States
* District Court for the
* District of Nebraska.
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* [UNPUBLISHED]
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Submitted: March 6, 2000
Filed: March 13, 2000

Before RICHARD S. ARNOLD, BOWMAN, and BEAM, Circuit Judges.

PER CURIAM.

Jose Lara, Jr. pleaded guilty to conspiring to distribute and possess with intent to distribute methamphetamine and cocaine, in violation of 21 U.S.C. § 846 (1994). The District Court¹ sentenced him to 188 months imprisonment and five years supervised release. On appeal, Lara challenges the Court's application of a two-level enhancement for possessing a firearm in connection with the offense, the Court's application of a three-level enhancement for being a manager or supervisor of the

¹The Honorable Joseph F. Bataillon, United States District Judge for the District of Nebraska.

criminal activity, the Court's denial of Lara's motion for a downward departure, and the reliability of the evidence presented at sentencing.

We conclude that the District Court did not clearly err in determining Lara's role in the offense, see United States v. Johnson, 47 F.3d 272, 277 (8th Cir. 1995) (standard of review), or in determining that he possessed a firearm in connection with the offense, see United States v. Belitz, 141 F.3d 815, 817 (8th Cir. 1998) (standard of review), and did not abuse its discretion in determining the reliability of the evidence presented at sentencing, see United States v. Stavig, 80 F.3d 1241, 1247 (8th Cir. 1996) (standard of review). As the Court was aware of its authority to grant a downward departure, and discretionarily declined to do so, the issue is unreviewable on appeal. See United States v. Turechek, 138 F.3d 1226, 1228 (8th Cir. 1998).

Accordingly, we affirm the judgment of the District Court.

A true copy.

Attest:

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