

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

No. 99-4101

United States of America,	*	
	*	
Appellee,	*	Appeal from the United States
	*	District Court for the District
v.	*	of Nebraska.
	*	
Ricky G. Jackson,	*	[UNPUBLISHED]
	*	
Appellant.	*	

Submitted: March 28, 2000

Filed: April 4, 2000

Before LOKEN, FAGG, and HANSEN, Circuit Judges.

PER CURIAM.

Ricky G. Jackson pleaded guilty to conspiring to distribute and possess with intent to distribute cocaine base, and the district court sentenced Jackson to 120 months imprisonment and five years supervised release. On appeal, Jackson contends the United States Sentencing Commission has been unconstitutionally delegated lawmaking authority, the district court committed error by denying Jackson's downward-departure motion without an evidentiary hearing, and the government failed to move for a substantial-assistance downward departure because of Jackson's race.

Jackson's argument about the constitutionality of the Sentencing Commission is foreclosed by Mistretta v. United States, 488 U.S. 361, 412 (1989). The district court was aware of its authority to depart from the Guidelines on the grounds Jackson asserted, making its decision to deny Jackson a downward departure unreviewable. See United States v. Turechek, 138 F.3d 1226, 1228 (8th Cir. 1998). Finally, by withdrawing his motion to compel the government to move for a substantial-assistance downward departure before sentencing, Jackson intentionally relinquished or abandoned his claim, and we need not review it. See United States v. Olano, 507 U.S. 725, 733 (1993).

We thus affirm the judgment of the district court.

A true copy.

Attest:

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