

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

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No. 00-3751

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United States of America,

Appellee,

v.

Juan Gerardo Hernandez, also known  
as Chapin,

Appellant.

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Appeal from the United States  
District Court for the  
Southern District of Iowa.

[UNPUBLISHED]

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Submitted: July 27, 2001

Filed: July 31, 2001

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Before HANSEN, FAGG, and BEAM, Circuit Judges.

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PER CURIAM.

A jury found Juan Gerardo Hernandez guilty of conspiring to distribute methamphetamine, in violation of 21 U.S.C. § 846, and possessing methamphetamine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1). The district court<sup>1</sup> sentenced him to 168 months imprisonment and 5 years supervised release. Hernandez raises five issues on appeal, each of which we reject.

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<sup>1</sup>The Honorable R. E. Longstaff, Chief Judge, United States District Court for the Southern District of Iowa.

We conclude that the district court did not err in denying Hernandez's motion for judgment of acquittal, as there was sufficient evidence of his guilt, see United States v. James, 172 F.3d 588, 591 (8th Cir. 1999) (standard of review); did not clearly err in determining Hernandez's drug quantity based on the testimony of the government witnesses, which the court was entitled to believe, see United States v. Milton, 153 F.3d 891, 898 (8th Cir. 1998) (standard of review), cert. denied, 525 U.S. 1165 (1999); and did not clearly err in applying an obstruction-of-justice enhancement, having found that Hernandez perjured himself at trial, see United States v. Molina, 172 F.3d 1048, 1058 (8th Cir.) (standard of review), cert. denied, 528 U.S. 893 (1999). Finally, the court's discretionary decisions not to depart downward from the Guidelines are unreviewable on appeal. See United States v. Lim, 235 F.3d 382, 385 (8th Cir. 2000).

Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

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