



arrest warrants were pending against Gamboa, but declined to depart upward under U.S.S.G. § 4A1.3 (Adequacy of Criminal History Category).

Gamboa now argues that, because the district court believed it could depart upward under section 4A1.3, the court apparently believed it was precluded from departing downward under section 5K2.11. We may review the district court's refusal to depart only if it "is premised on the belief that the court lacked the authority to [depart]." United States v. Jenkins, 78 F.3d 1283, 1290 (8th Cir. 1996). Having carefully reviewed the sentencing transcript, we conclude the court was aware of its authority to depart under section 5K2.11 and exercised its discretion not to do so, and thus we may not further review the district court's decision.

Accordingly, the judgment of the district court is affirmed.

A true copy.

Attest:

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