

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

No. 96-4152

United States of America,	*	
	*	
Appellee,	*	
	*	
v.	*	Appeal from the United States
	*	District Court for the
Cynthia R. Reed, also known as	*	District of Nebraska.
Chelle Reed,	*	[UNPUBLISHED]
	*	
Appellant.	*	

Submitted: April 16, 1997

Filed: April 24, 1997

Before BOWMAN, WOLLMAN, and BEAM, Circuit Judges.

PER CURIAM.

Cynthia R. Reed pleaded guilty to conspiring to distribute and possess with intent to distribute methamphetamine. Arguing that post-traumatic stress brought on by repeated childhood sexual assaults caused her to commit the instant offense, Reed moved for a downward departure from the Guidelines sentencing range under U.S. Sentencing Guidelines Manual § 5K2.13, p.s. (diminished capacity). After an evidentiary hearing, the district court¹ denied Reed's motion, concluding that the evidence failed to establish that Reed's post-traumatic stress disorder resulted in a significantly reduced mental capacity which contributed to the

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.

commission of the offense. The court sentenced Reed to 30 months' imprisonment, the minimum sentence in the applicable Guidelines range. Reed appeals her sentence.

Because our reading of the record satisfies us that the district court was aware of its authority to depart downward under section 5K2.13, the court's exercise of its discretion not to depart is unreviewable. See United States v. Jackson, 56 F.3d 959, 960-61 (8th Cir. 1995). Accordingly, the judgment is affirmed.

A true copy.

Attest:

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