United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 96-3031

United States of America,	*	
	*	
Appellee,	*	
	*	
v.	*	Appeal from the United States
	*	District Court for the
Geraldo Robles-Garcia, also known as	*	District of Nebraska.
Jerardo Robles, also known as Gerardo	*	
Garcia,	*	[UNPUBLISHED]
	*	
Appellant.	*	

Submitted: June 27, 1997
Filed: July 15, 1997

Before BOWMAN, LOKEN, and HANSEN, Circuit Judges.

PER CURIAM.

Geraldo Robles-Garcia pleaded guilty to illegally reentering the United States after having been previously arrested and deported, a violation of 8 U.S.C. § 1326(a) (1994). The District Court[1] sentenced Robles-Garcia to seventy-one months of imprisonment and three years of supervised release. On appeal, Robles-Garcia's

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[1]The Honorable Lyle E. Strom, United States District Judge for the District of Nebraska.

appointed counsel moved to withdraw and filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), arguing that the District Court abused its discretion in denying the government's motion to depart downward based on Robles-Garcia's consent to administrative deportation. We granted counsel leave to withdraw. Although Robles-Garcia was granted leave to file a pro se supplemental brief, he has not done so.

We conclude the that District Court's denial of a downward departure under U.S. Sentencing Guidelines Manual § 5K2.0, (1995) (policy statement) is unreviewable on appeal, as the District Court's statements at sentencing demonstrate that the court was fully aware of its authority to depart from the Guidelines but elected not to do so. See United States v. Hernandez-Reyes, 114 F.3d800, 801-03 (8th Cir. 1997) (holding that denial of downward departure by district court was unreviewable where court fully understood its authority to depart based on defendant's consent to administrative deportation).

Upon reviewing the record in accordance with Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issue for appeal. Accordingly, the judgment of the District Court is affirmed.

A true copy.

Attest:

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