

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-3763

United States of America,

Appellee,

v.

Gary Michael Gatliff,

Appellant.

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Appeal from the United States
District Court for the Western
District of Arkansas.

[UNPUBLISHED]

Submitted: June 4, 2004

Filed: June 17, 2004

Before MELLOY, HANSEN, and COLLOTON, Circuit Judges.

PER CURIAM.

Gary Michael Gatliff pleaded guilty to willfully and knowingly transmitting in interstate commerce a telephone communication containing a threat to injure a person, in violation of 18 U.S.C. § 875(c). The district court¹ sentenced him to 18 months imprisonment and 3 years supervised release. On appeal, he argues that the district court should have granted his motion for a downward departure based on his reduced mental capacity. Given the district court's explicit recognition of its authority to

¹The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

depart, its decision not to do so is unreviewable. See United States v. Koons, 300 F.3d 985, 993-94 (8th Cir. 2002). Accordingly, we affirm.
