

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-3275

United States of America,

Appellee,

v.

Ernest Alphonzo Wilcox,

Appellant.

*

*

*

* Appeal from the United States

* District Court for the

* Southern District of Iowa.

*

* [UNPUBLISHED]

*

Submitted: October 6, 2005

Filed: October 27, 2005

Before ARNOLD, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

Ernest Alphonzo Wilcox appeals the sentence the district court¹ imposed following his guilty plea to bank robbery, in violation of 18 U.S.C. § 2113(a). On appeal, Wilcox argues that the district court erred in not granting him a downward departure under U.S.S.G. § 5K2.12 (coercion and duress), and in not treating two March 8, 1988 state second-degree theft convictions, for which Wilcox received concurrent 5-year prison terms, as a single prior conviction for purposes of calculating his criminal history score.

¹The Honorable Harold D. Vietor, United States District Judge for the Southern District of Iowa.

We conclude that the district court's discretionary decision to deny Wilcox's downward-departure request is unreviewable, see United States v. Mohr, 407 F.3d 898, 902 (8th Cir. 2005), and that the district court did not err in concluding that Wilcox's two theft convictions were not related, see U.S.S.G. § 4A1.2(a)(2), comment. (n.3); United States v. Newsome, 409 F.3d 996, 998-99 (8th Cir. 2005) (standard of review), petition for cert. filed, (U.S. Sept. 6, 2005) (No. 05-6240).

Accordingly, we affirm.
