

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

September 26, 2012

Lyle W. Cayce
Clerk

No. 11-50671
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALEJANDRO SOSA, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:10-CR-722-1

Before KING, CLEMENT, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Alejandro Sosa, Jr., pleaded guilty to one count of conspiracy to possess with intent to distribute more than 100 kilograms of marijuana and one count of possession with intent to distribute more than 100 kilograms of marijuana. The district court imposed concurrent 108-month prison terms for these two offenses and ordered the terms to run consecutively to the sentence not yet imposed in Sosa's pending state case. Sosa now raises arguments that he

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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concedes are foreclosed by *United States v. Brown*, 920 F.2d 1212, 1216-17 (5th Cir. 1991), *abrogated on other grounds by United States v. Candia*, 454 F.3d 468, 472-73 (5th Cir. 2006), which held that a district court has the discretion under 18 U.S.C. § 3584 to order a federal sentence to run consecutively to a yet-to-be-imposed state sentence. *See Setser v. United States*, 132 S. Ct. 1463, 1466-73 (2012). Accordingly, the Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.