

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

No. 16-41581
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 18, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

FRANCISCO MADRIGAL,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Texas
No. 2:11-CR-928-1

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Francisco Madrigal pleaded guilty of conspiring to possess with intent to

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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distribute more than 1,000 kilograms of marihuana. His advisory guideline range was 120 months of imprisonment, which was the statutory minimum. The district court departed downward and imposed a term of 90 months. Madrigal challenges the denial of his motion for a reduction under 18 U.S.C. § 3582(c)(2) based on Amendment 782 to the Sentencing Guidelines.

Here, however, the district court lacked authority to reduce Madrigal's sentence because Madrigal's advisory guideline range was governed by the statutory minimum. *See United States v. Carter*, 595 F.3d 575, 578-81 (5th Cir. 2010); 21 U.S.C. § 841(b)(1)(B)(vii); U.S.S.G. § 1B1.10(a), p.s. & comment. (n.1(A)). Because Madrigal was not eligible for a reduction, the court was not authorized to grant him one.

The judgment of sentence is AFFIRMED.