

United States Court of Appeals for the Fifth Circuit

No. 21-51181
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 10, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MONICA JEAN JIMENEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:21-CR-443-1

Before SMITH, SOUTHWICK, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Monica Jean Jimenez appeals the 120-month prison sentence imposed for her guilty plea conviction for possession with intent to distribute 500 grams or more of a mixture containing a detectable amount of methamphetamine. The 120-month sentence imposed was the mandatory minimum sentence pursuant to 21 U.S.C. § 841(b)(1)(A).

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Jimenez asserts that she was entitled to a downward departure pursuant to U.S.S.G. § 5H1.3 based on her history of trauma and various mental conditions and that her sentence was substantively unreasonable. We ordinarily lack authority to review a district court's refusal to depart below a statutory minimum, but we may review de novo a district court's decision that it lacked the authority to do so. *See United States v. James*, 468 F.3d 245, 246-47 (5th Cir. 2006). The Government did not move for a downward departure based on substantial assistance under 18 U.S.C. § 3553(e), and Jimenez was ineligible for a safety valve reduction under § 3553(f). *See* § 3553(f). Accordingly, the district court correctly determined that it lacked the authority to grant Jimenez's request for a sentence below the mandatory minimum, and her sentence was therefore not unreasonable. *See United States v. Phillips*, 382 F.3d 489, 499 (5th Cir. 2004); *see also United States v. Harper*, 527 F.3d 396, 411 (5th Cir. 2008).

The district court's judgment is AFFIRMED.