

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

No. 16-40260
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 7, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

HOSEA LINWOOD,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:08-CR-1173-1

Before HIGGINBOTHAM, HAYNES, and GRAVES, Circuit Judges.

PER CURIAM:*

Hosea Linwood was convicted by a jury of possession with intent to distribute in excess of 1,000 kilograms of marijuana and was sentenced to 120 months of imprisonment. The district court denied Linwood's motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). Linwood now seeks leave to proceed in forma pauperis (IFP) on appeal from the district court's denial of his motion to reduce his sentence. By moving to proceed IFP, Linwood

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 16-40260

is challenging the district court's certification that his appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

In the circumstances presented here, the district court lacked authority to reduce Linwood's sentence below the statutory minimum, which is 10 years of imprisonment. *See United States v. Carter*, 595 F.3d 575, 578-81 (5th Cir. 2010); 21 U.S.C. § 841(b)(1)(A)(vii). Linwood's contention that the district court did not impose a mandatory minimum term of imprisonment is incorrect, and he fails to demonstrate that his appeal raises a nonfrivolous issue. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

Accordingly, Linwood's motion for leave to proceed IFP is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.