

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

No. 18-30164
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 5, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DENNIS JOSEPH BRASS, also known as Joe,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:14-CR-216-1

Before BENAVIDES, HIGGINSON, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Following an earlier appeal, *see United States v. Brass*, 700 F. App'x 361 (5th Cir. 2017), the district court resentenced Dennis Joseph Brass on his guilty plea to a drug conspiracy and imposed the statutory mandatory minimum sentence of 120 months of imprisonment. Brass now challenges that sentence, contending that the district court should have imposed a lower sentence. We affirm.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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The Government filed a motion for a downward departure from the guidelines range pursuant to U.S.S.G. § 5K1.1, but it did not move pursuant to 18 U.S.C. § 3553(e) for a departure below the mandatory minimum. Therefore, the district court lacked the authority to sentence Brass below the statutory mandatory minimum. *See Melendez v. United States*, 518 U.S. 120, 124-26 (1996); *United States v. Sealed Appellee*, 887 F.3d 707, 709 (5th Cir. 2018). Brass's argument to the contrary is meritless.

AFFIRMED.