

DEC 21 2016

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOHN FLEISCHAUER,

Defendant-Appellant.

No. 16-10057

D.C. No. 1:15-cr-00225-SOM

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Susan Oki Mollway, District Judge, Presiding

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

John Fleischauer appeals from the district court's judgment and challenges the 120-month mandatory minimum sentence imposed following his guilty-plea conviction for one count of conspiracy to distribute and possess with intent to distribute one kilogram of heroin, in violation of 21 U.S.C. §§ 841(a)(1),

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(b)(1)(A)(i), and 846; and one count of conspiracy to conduct money laundering in violation of 18 U.S.C. §§ 1956(a)(1)(A)(i), (h). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Fleischauer contends that the district court erred in determining that he was subject to a 120-month mandatory minimum sentence. We disagree. The record shows that Fleischauer admitted responsibility for “at least one kilogram” of heroin during his change of plea hearing, which triggered the 120-month mandatory minimum contained in section 841(b)(1)(A)(i). *See* 21 U.S.C. § 841(b)(1)(A)(i); *United States v. Jefferson*, 791 F.3d 1013, 1016 (9th Cir. 2015).

AFFIRMED.