

MAR 31 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CESAR VALENZUELA-MEJIA,

Defendant - Appellant.

No. 09-50129

D.C. No. 2:07-cr-00903-PSG

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

Cesar Valenzuela-Mejia appeals from the 120-month sentence imposed following his guilty-plea conviction for conspiracy to distribute cocaine, in

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

violation of 21 U.S.C. §§ 846, 841 (a)(1), (b)(1)(A). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Valenzuela-Mejia contends that the district court erred by relying on untrustworthy evidence to deny him safety valve relief. This contention is belied by the record, and the district court did not clearly err when it denied safety valve relief. *See* 18 U.S.C. § 3553(f); U.S.S.G. § 5C1.2; *see also United States v. Shrestha*, 86 F.3d 935, 938-40 (9th Cir. 1996). Valenzuela-Mejia failed to meet his burden of proving, by a preponderance of the evidence, that he qualified for safety valve relief. *See United States v. Ajugwo*, 82 F.3d 925, 927-29 (9th Cir. 1996).

AFFIRMED.