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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p>v.</p> <p>RICARDO VELASCO-CONTRAERAS, a.k.a. Jorge Vasquez,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 11-10454

D.C. No. 3:10-cr-00107-HDM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Howard D. McKibben, District Judge, Presiding

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Ricardo Velasco-Contraeras appeals from the 120-month sentence imposed following his guilty-plea conviction for various drug offenses, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A), and (b)(1)(B). We have jurisdiction under 28

* 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).

U.S.C. § 1291, and we affirm.

Velasco-Contraeras contends that the district court erred by applying the wrong legal standard when evaluating whether he was entitled to relief under the safety valve provision of 18 U.S.C. § 3553(f) and U.S.S.G. § 5C1.2. The record reflects that the district court applied the correct legal standard in denying safety valve relief.

Velasco-Contraeras also contends that the district court clearly erred in denying him relief under the safety valve provision. The record reflects that the district court did not clearly err when it determined that Velasco-Contraeras did not meet his burden of proving by a preponderance of the evidence that he qualified for safety valve relief. *See United States v. Diaz-Cardenas*, 351 F.3d 404, 409 (9th Cir. 2003).

Velasco-Contraeras's request for remand to the district court for an evidentiary hearing is denied.

AFFIRMED.