

MAR 22 2013

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NOT FOR PUBLICATION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.

CLARISANA PRECIADO CERVANTES,

Defendant - Appellant.

No. 11-10670

D.C. No. 4:10-cr-00391-RCC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

Submitted March 12, 2013**

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

Clarisana Preciado Cervantes appeals from the district court's judgment and challenges the 60-month sentence imposed following her jury-trial conviction for possession with intent to distribute marijuana, in violation of 21 U.S.C.

* 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).

§ 841(a)(1), (b)(1)(B)(vii). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Preciado Cervantes contends that the district court erred by denying her relief under the safety valve provision of 18 U.S.C. § 3553(f). We review for clear error the district court's determination that a defendant is ineligible for safety valve relief. *See United States v. Mejia-Pimental*, 477 F.3d 1100, 1103 (9th Cir. 2007). Contrary to Preciado Cervantes's contention, the record here is sufficient to permit meaningful appellate review, *see United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc), and it makes evident that the district court concluded that Preciado Cervantes had not truthfully and fully provided the government with all of the information she had concerning the offense. This conclusion finds support in the record; accordingly, the district court did not clearly err in denying relief. *See* 18 U.S.C. § 3553(f)(5); *United States v. Ajugwo*, 82 F.3d 925, 929 (9th Cir. 1996).

In light of the fact that the court lacked discretion to sentence Preciado Cervantes below the statutory mandatory minimum, we do not reach her remaining contentions of error.

AFFIRMED.