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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NOT FOR PUBLICATION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>Plaintiff - Appellee,</p> <p>v.</p> <p>RENEE GOMEZ,</p> <p>Defendant - Appellant.</p>

No. 13-30086

D.C. No. 2:11-cr-00108-EFS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Edward F. Shea, District Judge, Presiding

Submitted February 18, 2014**

Before: ALARCÓN, O’SCANNLAIN, and FERNANDEZ, Circuit Judges.

Renee Gomez appeals from the district court’s judgment and challenges the 120-month sentence imposed following her jury-trial conviction for drug crimes involving methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 846, 856, and 860. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Gomez challenges the district court's denial of safety-valve relief. We review de novo the district court's interpretation of 18 U.S.C. § 3553(f), and we review for clear error its factual 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 Gomez's contention, the district court made its own determination, separate from the jury's finding of guilt, that Gomez's safety-valve statement was not truthful. *See United States v. Sherpa*, 110 F.3d 656, 662 (9th Cir. 1996). Furthermore, the court's finding was not clearly erroneous. *See United States v. Orm Hieng*, 679 F.3d 1131, 1144-45 (9th Cir.) (upholding denial of safety-valve relief where the defendant denied knowing anything about a marijuana growing operation, but evidence in the record suggested otherwise), *cert. denied*, 133 S. Ct. 775 (2012). Therefore, Gomez is not entitled to relief from the statutory mandatory minimum sentence. *See* 18 U.S.C. § 3553(f)(5).

Gomez's motion to take judicial notice is denied.

AFFIRMED.