

NOV 24 2015

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## NOT FOR PUBLICATION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.

HERNAN CORTEZ-VILLASENOR,

Defendant - Appellant.

No. 14-10552

D.C. No. 1:12-cr-00184-AWI

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Anthony W. Ishii, District Judge, Presiding

Submitted November 18, 2015\*\*

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Hernan Cortez-Villasenor appeals from the district court's judgment and challenges the 120-month sentence imposed following his guilty-plea conviction for conspiracy to manufacture, distribute, and/or possess with the intent to distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846; and unlawful

---

\* 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).

distribution of an unregistered pesticide, in violation of 7 U.S.C. §§ 136j(a)(1)(A) and 136l(b)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Cortez-Villasenor contends that he received ineffective assistance because his trial counsel failed to argue that he qualified for safety-valve relief under 18 U.S.C. § 3553(f). Contrary to Cortez-Villasenor's contention, the record does not permit us to consider this claim on direct appeal. *See United States v. Rahman*, 642 F.3d 1257, 1259-60 (9th Cir. 2011) (this court reviews ineffective assistance claims on direct appeal only where the record is sufficiently developed or inadequate representation is obvious).

Cortez-Villasenor also contends that the district court erred by failing to explain its denial of safety-valve relief. We disagree. The record reflects that the district court adopted the presentence report's finding that Cortez-Villasenor failed to debrief successfully, which was supported by the government's uncontested description at sentencing of the safety-valve interview. This is sufficient to permit meaningful appellate review. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

In light of our decision, we do not reach Cortez-Villasenor's request for reassignment to a different judge on remand.

**AFFIRMED.**