

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 11 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOSE LUIS MANZO, AKA Jose Manzo,

Defendant-Appellant.

Nos. 19-30166

19-30168

D.C. Nos. 2:07-cr-02042-LRS-2

2:07-cr-02088-LRS-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Lonny R. Suko, District Judge, Presiding

Submitted February 4, 2020**

Before: FERNANDEZ, SILVERMAN, and TALLMAN, Circuit Judges.

In these consolidated appeals, Jose Luis Manzo appeals pro se from the district court's order denying his motion for a sentence reduction under 18 U.S.C. § 3582(c)(2). 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 Ninth Circuit Rule 36-3.

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

Manzo contends that he is entitled to a sentence reduction under the safety valve provision of the First Step Act of 2018. The safety valve provision of the First Step Act does not appear to be applicable to Manzo, whose criminal convictions pre-date the statute's enactment. *See* First Step Act of 2018, Pub. L. No. 115-391, § 402(b), 132 Stat. 5194, 5221 ("The amendment made by this section shall apply only to a conviction entered on or after the date of enactment of this Act."). But even if it were, Manzo would not be entitled to safety valve relief. As the district court correctly concluded, the First Step Act's changes to the safety valve provision do not help Manzo because, at sentencing, Manzo was determined to have six criminal history points, including one three-point offense. *See* 18 U.S.C. § 3553(f)(1)(A)-(B) (2019) (defendant is ineligible for safety valve relief if he has more than four criminal history points or a prior three-point offense).

Manzo's motion to take judicial notice is granted.

AFFIRMED.