

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 9 2023

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-50181

Plaintiff-Appellee,

D.C. No.

8:19-cr-00155-DOC-1

v.

CLAUDIA CASTILLO GUZMAN, AKA  
Claudia Castillo, AKA Claudia Castro, AKA  
Claudia Guzman, AKA Claudia Castillo  
Guzman, AKA Claudia Guzman-Castillo,  
AKA Claudia Penaloza, AKA Claudia  
Castillo Penaloza, AKA Claudia Rubio,

MEMORANDUM\*

Defendant-Appellant.

Appeal from the United States District Court  
for the Central District of California  
David O. Carter, District Judge, Presiding

Submitted December 6, 2022\*\*  
Pasadena, California

Before: R. NELSON, BADE, and FORREST, Circuit Judges.

After engaging in multiple sales of drugs and firearms to undercover agents,

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\* 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).

Appellant Claudia Castillo Guzman (“Guzman”) was indicted and pleaded guilty to conspiracy to distribute more than 50 grams of methamphetamine. The district court sentenced her to the mandatory minimum of 120 months’ imprisonment. Guzman argues that the district court violated Rule 32 of the Federal Rules of Criminal Procedure by failing to explicitly rule on her objections to the presentence report (“PSR”), and imposed a procedurally erroneous sentence by failing to adequately explain its sentencing decision, consider Guzman’s claim of sentencing manipulation, and address her eligibility for safety valve relief under 18 U.S.C. § 3553(f).<sup>1</sup> We have jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742, and we affirm.

1. Under Rule 32(i)(3)(B), the district court “must—for any disputed portion of the presentence report or other controverted matter—rule on the dispute or determine that a ruling is unnecessary either because the matter will not affect sentencing, or because the court will not consider the matter in sentencing.” Fed. R. Crim. P. 32(i)(3)(B). We have “mandated strict compliance with Rule 32, explaining that the rulings must be express or explicit.” *United States v. Doe*, 705 F.3d 1134, 1153 (9th Cir. 2013) (quotation marks and citations omitted). However, a district court is not required to resolve legal disputes; “[w]hen a

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<sup>1</sup> Because Guzman’s claims fail on the merits, we do not reach the government’s waiver arguments.

defendant fails to make specific allegations of factual inaccuracy in a PSR, a district court has no obligation under Rule 32(i)(3)(B).” *United States v. Christensen*, 732 F.3d 1094, 1102 (9th Cir. 2013).

Here, the district court was not required to explicitly resolve Guzman’s objections to the PSR’s recommended total offense level because she raised only legal arguments based on the government’s alleged sentencing manipulation and her eligibility for safety valve relief. Because she did not object to factual inaccuracies in the PSR, she failed to trigger the requirements of Rule 32. *See United States v. Petri*, 731 F.3d 833, 841 (9th Cir. 2013) (“A specific factual objection addresses a factual inaccuracy; it does not merely object to recommendations, opinions, or conclusions.”).

2. The district court did not procedurally err in calculating the Guidelines or in explaining its below-Guidelines sentence. A district court “must adequately explain the chosen sentence to allow for meaningful appellate review and to promote the perception of fair sentencing.” *Gall v. United States*, 552 U.S. 38, 50 (2007). “Nonetheless, when a judge decides simply to apply the Guidelines to a particular case, doing so will not necessarily require lengthy explanation.” *Rita v. United States*, 551 U.S. 338, 356 (2007). Here, the district court identified the Guidelines range as a starting point. The court then made an individualized assessment of Guzman’s case, varying downward after hearing argument and

expressly considering the 18 U.S.C. § 3553(a) factors—including Guzman’s horrific childhood, her efforts at rehabilitation, her criminal history, and the circumstances of the crime, which involved the sale of firearms—and concluded that the mandatory minimum sentence was appropriate. Thus, the district court adequately explained the sentence it imposed. *See, e.g., United States v. Cherer*, 513 F.3d 1150, 1159 (9th Cir. 2008) (citing *United States v. Sylvester Norman Knows His Gun, III*, 438 F.3d 913, 918 (9th Cir. 2006) (the requirement that a district court sufficiently consider the Guidelines as well as the § 3553(a) factors “does not necessitate a specific articulation of each factor separately, but rather a showing that the district court considered the statutorily-designated factors in imposing a sentence”)).

3. Guzman’s “sentencing manipulation” argument also fails.

“‘[S]entencing manipulation’ occurs when the government increases a defendant’s guideline sentence by conducting a lengthy investigation which increases the number of drug transactions and quantities for which the defendant is responsible.” *United States v. Boykin*, 785 F.3d 1352, 1360 (9th Cir. 2015). We have explained that “[t]o prove sentencing manipulation, a defendant must show ‘that the officers engaged in the later drug transactions solely to enhance his potential sentence,’” and that relief for sentencing manipulation is generally found in “‘only the extreme and unusual case’ involving ‘outrageous governmental conduct.’” *Id.* (citations

omitted).

In her objections to the PSR, Guzman stated that “[t]here is a valid argument to be made regarding sentencing manipulation,” but she did not make that argument, or point to any evidence that the government engaged in outrageous conduct by prolonging its investigation with the sole purpose of increasing her sentence. Guzman’s suggestion that the government could have arrested her after the first methamphetamine sale is insufficient. *See United States v. Baker*, 63 F.3d 1478, 1500 (9th Cir. 1995) (“[W]e decline to adopt a rule that, in effect, would find ‘sentencing manipulation’ whenever the government, even though it has enough evidence to indict, opts instead to wait in favor of continuing its investigation.”).

4. Finally, a district court’s failure to address a defendant’s sentencing argument “is not procedural error where ‘adequate explanation’ may ‘be inferred from the PSR or the record as a whole.’” *United States v. Flores*, 725 F.3d 1028, 1041–42 (9th Cir. 2013) (quoting *United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008)). Guzman argues that she is eligible for safety valve relief under § 3553(f)(1), but she did not respond, either at sentencing or on appeal, to the explanation in the PSR addendum that she was not safety valve eligible under § 3553(f)(2) because she pleaded guilty to possessing a firearm. The district court adequately addressed Guzman’s ineligibility for safety valve relief when it stated that it did not apply. *See, e.g., United States v. Trujillo*, 713 F.3d 1003, 1009 (9th

Cir. 2013) (“Sometimes the circumstances will call for a brief explanation; sometimes they will call for a lengthier explanation.” (quoting *Rita*, 551 U.S. at 357)).

**AFFIRMED.**