

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 10, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LUIS CHACON-MANRIQUEZ,

Defendant - Appellant.

No. 20-2167
(D.C. No. 1:18-CR-02102-MV-1)
(D. N.M.)

ORDER AND JUDGMENT*

Before **MATHESON, BRISCOE, and PHILLIPS**, Circuit Judges.

Luis Chacon-Manriquez pled guilty to a federal drug offense and was sentenced to the mandatory minimum of 120 months in prison. He appeals, arguing the district court erred (1) by denying him “safety-valve” relief from the mandatory minimum and (2) in calculating his offense level under the Sentencing Guidelines.

Exercising jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a), we affirm.

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties’ request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

I. BACKGROUND

A. *Offense Conduct, Indictment, and Guilty Plea*

Mr. Chacon-Manriquez twice sold methamphetamine to an undercover agent. These sales totaled about 1.3 kilograms. A grand jury indicted him on one count of distributing 500 grams or more of a mixture and substance containing methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A). Mr. Chacon-Manriquez pled guilty to this count without entering into a plea agreement.

B. *Sentencing*

Mr. Chacon-Manriquez's offense triggered a mandatory minimum sentence of 120 months in prison. *See* 21 U.S.C. § 841(b)(1)(A)(viii). The U.S. Probation Office's Presentence Investigation Report ("PSR") did not recommend safety-valve relief from this mandatory minimum under 18 U.S.C. § 3553(f).

Mr. Chacon-Manriquez objected to the PSR, arguing he qualified for the safety valve. He and the Government disagreed as to whether he had satisfied the fifth of five statutory requirements for safety-valve relief, which is that

not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

18 U.S.C. § 3553(f)(5).

The district court held an evidentiary hearing on whether Mr. Chacon-Manriquez had met this requirement. After hearing testimony from Mr. Chacon-Manriquez and his three witnesses, the court concluded he had not been truthful in his representations to the Government. It identified numerous inconsistencies in his statements. These inconsistencies “fatally undermine[d]” the credibility of the statements he made to the Government. Aplee. Br. at 12-13.

II. DISCUSSION

A. *Safety-Valve Relief*

1. Legal Standards

“We review a district court’s factual determination on safety-valve eligibility for clear error, including whether a defendant has provided the government with complete and truthful information. A district court’s legal interpretation guiding its application of the safety-valve provision is reviewed de novo. The defendant has the burden to prove that he qualifies for the safety-valve by a preponderance of the evidence.” *United States v. Galvon-Manzo*, 642 F.3d 1260, 1265-66 (10th Cir. 2011) (citation and quotations omitted).

When reviewing a district court’s factual findings about whether the defendant provided complete and truthful information, we must be “cognizant that the district court’s application of the safety valve is fact specific and dependent on credibility determinations that cannot be replicated with the same accuracy on appeal.” *United States v. Altamirano–Quintero*, 511 F.3d 1087, 1098 (10th Cir. 2007) (quotations omitted). Also, we recognize that a defendant’s disclosure obligations are “very

broad, requiring disclosure of everything the defendant knows about his own actions and those who participated in the crime with him.” *United States v. Myers*, 106 F.3d 936, 941 (10th Cir. 1997).

2. Analysis

Mr. Chacon-Manriquez offers no meritorious argument as to why the district court erred in finding that he had not provided the Government with truthful information. Mr. Chacon-Manriquez has failed to address any of the specific inconsistencies the district court identified as “fatally undermining” his credibility. His inadequate appellate briefing waives any challenge to the district court’s refusal to grant him safety-valve relief. *See Burke v. Regalado*, 935 F.3d 960, 1014 (10th Cir. 2019). He otherwise has failed to demonstrate on the merits that the district court’s factual findings were erroneous.

B. *Offense Level Calculation*

Mr. Chacon-Manriquez argues the district court should have applied reductions to his offense level under U.S. Sentencing Guidelines § 3B1.2(b) (minor participant) and § 3E1.1(b) (acceptance of responsibility). But even if Mr. Chacon-Manriquez could show he was entitled to these reductions, they would not have lowered his sentence. *See United States v. Sanchez-Leon*, 764 F.3d 1248, 1262 (10th Cir. 2014). Once Mr. Chacon-Manriquez pled guilty to distributing 500 grams or more of a mixture and substance containing methamphetamine, and once the district court determined Mr. Chacon-Manriquez was not entitled to safety-valve relief, the district court “had no discretion under the statute to do other than impose the

mandatory minimum sentence.” *United States v. Payton*, 405 F.3d 1168, 1173 (10th Cir. 2005). “Any error [in calculating his offense level] would be harmless.” *United States v. Grijalva*, 800 F. App’x 632, 637 (10th Cir. 2020) (unpublished) (cited for persuasive value under Fed. R. App. P. 32.1; 10th Cir. R. 32.1(A)).

III. CONCLUSION

Mr. Chacon-Manriquez has not shown the district court clearly erred in finding that he was not truthful in providing information to the Government and was thus ineligible for safety-valve relief. Because Mr. Chacon-Manriquez was sentenced to the mandatory minimum term of imprisonment, any error in the calculation of his offense level would have been harmless. We affirm Mr. Chacon-Manriquez’s sentence. We grant his unopposed motion to proceed *in forma pauperis*, and we discharge the show cause order regarding reimbursement for transcripts.

Entered for the Court

Scott M. Matheson, Jr.
Circuit Judge