

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 05-3053

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United States of America,

Appellee,

v.

Juan Rene Sainz-Ortega,

Appellant.

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Appeal from the United States  
District Court for the  
District of Minnesota.

[UNPUBLISHED]

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Submitted: July 20, 2006  
Filed: August 4, 2006

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Before MURPHY, BYE, and MELLOY, Circuit Judges.

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PER CURIAM.

A jury found Juan Rene Sainz-Ortega guilty of three drug offenses and of failing to appear for trial. The district court<sup>1</sup> sentenced him to a total of 246 months in prison and 10 years of supervised release. On appeal, Sainz-Ortega argues that the district court erred by denying him safety-valve relief.

We conclude that the district court did not clearly err in denying safety-valve relief. See United States v. White, 447 F.3d 1029, 1032 (8th Cir. 2006) (standard of

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<sup>1</sup>The Honorable James M. Rosenbaum, Chief Judge, United States District Court for the District of Minnesota.

review). The question was whether Sainz-Ortega's prior drug conviction was related to his instant drug convictions as relevant conduct within the meaning of U.S.S.G. §§ 1B1.3, 4A1.1, and 4A1.2. The answer to that question turned on a credibility determination by the district court regarding Sainz-Ortega's testimony at the sentencing hearing about his prior drug conviction. The district court's decision not to believe Sainz-Ortega's testimony is virtually unreviewable on appeal, and we have no cause to disturb it in the circumstances presented here. See Anderson v. City of Bessemer City, 470 U.S. 564, 575 (1985).

Accordingly, we affirm the judgment of the district court.

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