

United States Court of Appeals
For the Eighth Circuit

No. 22-1645

United States of America

Plaintiff - Appellee

v.

Michael Mendoza

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: January 9, 2023

Filed: May 9, 2023

[Unpublished]

Before KELLY, ERICKSON, and STRAS, Circuit Judges.

PER CURIAM.

After Michael Mendoza pleaded guilty to possessing at least 50 grams of methamphetamine with intent to distribute it, the district court¹ gave him a statutory-minimum sentence of ten years in prison. See 21 U.S.C. § 841(a)(1), (b)(1)(A).

¹The Honorable Stephanie M. Rose, Chief Judge, United States District Court for the Southern District of Iowa.

Although he claims that the statutory minimum does not apply under the so-called “safety valve,” *see* 18 U.S.C. § 3553(f), we affirm because the court made clear that it would have imposed the same sentence anyway.

The safety valve requires courts to ignore the “statutory minimum” if, among other things,

the defendant does not have—

- (A) more than 4 criminal history points, excluding any criminal history points resulting from a 1-point offense, as determined under the sentencing guidelines;
- (B) a prior 3-point offense, as determined under the sentencing guidelines; and
- (C) a prior 2-point violent offense, as determined under the sentencing guidelines[.]

Id. § 3553(f)(1). Mendoza was ineligible for the safety valve, according to the district court, because he had “a prior 3-point offense.” *Id.* § 3553(f)(1)(B). He disagrees.

No matter who has the better of the argument, any error here was harmless. *See* Fed. R. Crim. P. 52(a); *see also United States v. Davis*, 736 F.3d 783, 785 (8th Cir. 2013) (explaining how to analyze harmlessness when the alleged error involves a statutory minimum). The district court made clear at sentencing that it “would have imposed” the same ten-year sentence “even if th[e] mandatory minimum didn’t exist.” *See United States v. White*, 863 F.3d 1016, 1020 (8th Cir. 2017) (noting that an error is harmless if “the district court specifies the resolution of a particular issue did not affect the ultimate determination of a sentence” (citation omitted)). The reasons were that Mendoza had been caught with “a very large shipment . . . of methamphetamine,” had previously smuggled drugs into the United States “at least three . . . times,” and “didn’t perform well on supervised release.” *See* 18 U.S.C. § 3553(a). Given that the “alternatively imposed” sentence would have been the same, the resolution of the safety-valve issue makes no difference. *White*, 863 F.3d at 1020 (citation omitted).

We accordingly affirm the judgment of the district court.
