

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10590
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROXANNA FLORES-ALVARADO,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 4:22-cr-00034-RH-MAF-5

Before BRANCH, ABUDU, and ANDERSON, Circuit Judges.

PER CURIAM:

Roxanna Flores-Alvarado appeals her convictions and 60-month total sentence for conspiracy to distribute and possess with intent to distribute cocaine as well as possessing with intent

to distribute 500 grams or more of cocaine. On appeal, she argues that there was insufficient evidence to support her convictions. She also argues the district court made a legal error at sentencing. After careful review, we affirm her convictions and sentence.

I. FACTS AND PROCEDURAL HISTORY

In July 2022, Flores-Alvarado was charged with conspiracy to possess, with intent to distribute, one kilogram or more of a substance containing heroin and five kilograms or more of a substance containing cocaine, 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(i), (b)(1)(A)(ii), 846 (“Count One”), and possessing with intent to distribute 500 grams or more of a mixture and substance containing cocaine (“Count Four”). Flores-Alvarado pled not guilty, and the case proceeded to trial.

Trial Proceedings

After opening statements, the following evidence was presented to the jury.¹

The Drug Enforcement Administration (“DEA”) investigated Wuesley Pelaez-Vela, who had been laundering drug proceeds that were collected in the United States to his associates in

¹ “We ‘view the evidence in the light most favorable to the government and resolve all reasonable inferences and credibility evaluations in favor of the jury’s verdict.’” *United States v. Robertson*, 493 F.3d 1322, 1329 (11th Cir. 2007) (quoting *United States v. Tinoco*, 304 F.3d 1088, 1122 (11th Cir. 2002)). For readability, we omit evidence not relevant to the issues raised on appeal. At trial, the government did not contend that Flores-Alvarado was involved with heroin, so the trial only involved cocaine.

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Mexico. As part of this investigation, the DEA conducted surveillance on individuals who brought money to Pelaez-Vela. Pelaez-Vela eventually pled guilty to conspiracy to distribute cocaine and heroin, as well as conspiracy to import cocaine and heroin. The government called him to testify at Flores-Alvarado's trial, and he stated that he hoped that his sentence might be reduced in exchange for his cooperation.

Pelaez-Vela testified that he ran a construction company, became addicted to drugs, and then got involved in drug trafficking. He met a man named Eddie Williams, who asked him to assist with sending money to Mexico. Williams asked Pelaez-Vela for help because Pelaez-Vela spoke Spanish and knew Augustine Camacho, who had been sending drugs to Williams. Pelaez-Vela's barber, Christian Mendez, and Cornelius Garner, also began working with Pelaez-Vela, moving and selling cocaine in the Tallahassee area. Pelaez-Vela knew Flores-Alvarado through Mendez, as she had gone with Mendez to McAllen, Texas, and Georgia on "some trips to pick up drugs." While he did not have direct conversations with Flores-Alvarado about drugs, she was present during "a few" conversations he had with Mendez about drugs.

For example, Pelaez-Vela sent Mendez to McAllen to pick up seven kilograms of cocaine and, while speaking with Mendez about the trip, Flores-Alvarado was present. She went with Mendez to McAllen, as Flores-Alvarado had a driver's license, but

Mendez did not.² Pelaez-Vela told Mendez that the seven kilograms of cocaine he would be picking up would be identifiable by yellow tape on the packages. Based on this conversation, Pelaez-Vela believed that Flores-Alvarado knew the purpose of the trip was to pick up drugs because she knew that Mendez sold drugs and that her presence was required to cross the border since Mendez did not have the documents to do so. After Mendez picked up the drugs, he sent Pelaez-Vela photographs of them from a hotel room. Flores-Alvarado was visible in one of the photos. Pelaez-Vela then called Mendez, and the two discussed the cocaine Mendez had acquired. Pelaez-Vela could hear Flores-Alvarado in the background during the call. Mendez returned from the trip with seven kilograms of cocaine. After that trip to Mexico, Mendez was arrested. Pelaez-Vela asked Flores-Alvarado about how Mendez had been arrested and why he had not placed the drugs in the trunk of the car. Flores-Alvarado responded that Mendez had not listened to her.

On cross-examination, Pelaez-Vela testified that he had met with law enforcement on three occasions to assist the investigation and “get a benefit from it.” He conceded that, in the first meeting, he did not mention Flores-Alvarado’s involvement in the conspiracy; he only mentioned that she was Mendez’s girlfriend. In the second meeting, he simply stated that he met Flores-Alvarado

² That said, the government submitted evidence that, on one occasion, Mendez drove himself to a location in Tallahassee, where he sold drugs to an undercover officer. Flores-Alvarado was not present on this occasion.

while visiting Mendez's apartment. It was during the third interview with law enforcement that he indicated Flores-Alvarado was aware of "drug dealing" and explained her role in the trip to McAllen. He also stated that, when he gave Mendez instructions about picking up the drugs, Flores-Alvarado was on her phone, although he could not confirm whether she heard the conversation. Mendez also gave Pelaez-Vela Flores-Alvarado's phone number "in the event that anything happen[ed]" so that she and Pelaez-Vela could be in contact if Mendez did not answer. After Mendez was arrested, Pelaez-Vela gave Flores-Alvarado a phone so that the two could communicate directly.³

The government also called Javier Vides, a task force officer with the DEA, to the stand. Vides testified that he had been surveilling Pelaez-Vela and had observed him meeting with Flores-Alvarado and handing her a phone. Photos of these interactions were admitted into evidence.

The government also called Tyler Woodward, a Florida Highway Patrol officer, to testify. Woodward stated that he stopped a car which Flores-Alvarado was driving while Mendez sat in the passenger seat. Officers used a canine to search the car for drugs, which were discovered. There were approximately four kilograms of cocaine behind the driver's seat in a shoebox, near where

³ Defense counsel tried to impeach Pelaez-Vela with statements he had made to government officials which, in some respects, conflicted with his trial testimony. Yet, those statements did not directly relate to Flores-Alvarado's conduct.

Flores-Alvarado's son was sitting. Woodward explained that Mendez repeatedly told him that Flores-Alvarado did not know that the drugs were in the car. When she was asked about the cocaine, Flores-Alvarado yelled, "Cocaine?"⁴

Jason Glover, an officer with the Leon County Sheriff's Office, testified that he interviewed Flores-Alvarado after the traffic stop. Flores-Alvarado told Glover that Mendez was her boyfriend and that he was a barber. She said she had recently flown to Atlanta from California, traveled to Tallahassee, and drove back to Atlanta. Flores-Alvarado further stated that Mendez had joined her on her trips from California, Atlanta, and Tallahassee and that they had not taken any other trips together. Glover also testified that he believed Flores-Alvarado was not surprised that there was cocaine in the car she was driving, but he admitted no one had informed him about her initial reaction during the stop.

On the second day of trial, the government presented evidence that, on November 25, 2020, a camera inside a Customs and Border Protection checkpoint took a photograph of Flores-Alvarado driving a white Toyota Corolla, with Mendez in the front passenger seat and Flores-Alvarado's young son in the back seat.

Next, the government called Jamil Jefferson-Brown, a DEA agent who had reviewed evidence extracted from Mendez's cell phone. That evidence showed that Mendez and a man named

⁴ The parties also stipulated that the drugs found during the investigation contained cocaine.

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Fletcher Burkett communicated about cocaine transactions. On one occasion, Burkett and Mendez were texting about a drug transaction and, around the same time, Flores-Alvarado texted Mendez and told him to be careful. An hour later, Flores-Alvarado asked Mendez if he had made it back safely. On another occasion, Flores-Alvarado texted Mendez: “Babe, cops are outside. Okay. Be careful.”

Jefferson-Brown also explained that, in Mendez’s text messages, there were pictures of cocaine and money. Interspersed with these photos were pictures of Flores-Alvarado and Mendez together at tourist attractions. Another photo was of Flores-Alvarado on a bed in a hotel room with money spread out in front of her. However, he conceded that there were no photographs of open packages of cocaine on Flores-Alvarado’s phones, nor references to “kilos” or the price of cocaine. The government then rested its case.

Flores-Alvarado moved for a judgment of acquittal, but the district court denied her motion. She then took the stand and testified as follows. First, Flores-Alvarado explained her long-running relationship with Mendez. As relevant, she explained that, after she broke up with another partner, she started dating Mendez and he suggested they take a trip to Texas to visit his family, to which she agreed. Mendez later told her that he was thinking about making more money by working with someone in construction who used to come to the barbershop. Flores-Alvarado stated that Mendez had no skills in construction, but she understood that his job would

be managing workers because he was bilingual. She stated that he would call and video chat with her from construction sites, and that she could hear banging and people in the background during those calls.

She later agreed to move to Tallahassee to live with Mendez. They broke up again, she went back to California, but then she forgave him. Mendez asked her if she could meet him in Atlanta because he was going to start a project with a construction company. Mendez stated that he needed to go to Atlanta to meet Burkett, whom he described as being knowledgeable about construction, so they could gather materials and equipment, and recruit workers. Flores-Alvarado stated that Mendez sent her a picture of him and Burkett in which he was holding a large sum of money, but she believed that the money was to pay the workers. After she arrived in Atlanta, she saw Burkett's vehicle and noticed it was "a construction truck with construction ladders in it." She remained in the hotel with her son while Mendez and Burkett continued working on the construction project.

Flores-Alvarado, Mendez, and her son visited Dalton, Georgia to look around, take pictures, and visit the area where Mendez grew up. They also visited Chattanooga, Tennessee. She did not overhear any discussions about drugs, but she did hear the men speaking about construction projects. After Burkett visited, Mendez told her that they needed to go back to Atlanta to get money for the employees and equipment for the project. She stated that, when she told Mendez that there were cops outside and to be

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careful, she was concerned because he was driving without a license. She maintained that no one had asked her to be a lookout or to message them if something happened.

After their previous trips, they visited Charlotte, North Carolina, and then returned to Atlanta. When they checked into their hotel in Atlanta, Mendez suggested getting two rooms because he planned on working, and he did not want to wake up Flores-Alvarado's son. He told Flores-Alvarado that the door to the second room would be open if she needed anything. She later went into his room, and he hurriedly placed items under a blanket on the bed. There was a large amount of money on the bed which Mendez told her was for the construction project, and he asked her to take a picture of the money for him to send to his boss. Mendez suggested that she take a photo of herself with the money which she did. While in that second room, she saw two packages on the bed wrapped in colored plastic, and she believed they were packages containing construction materials. She claimed she did not know that they contained drugs, did not assume they were drugs, and did not "have an inkling" that the packages contained drugs. Mendez also asked her to help him count the money.

The following day, Mendez loaded her things into the truck and helped her child into his car seat. She was half asleep and barely noticed when Mendez pulled over to hand a bag of money off to another man. She thought the man was one of the workers for the construction company. When police pulled their vehicle over, Flores-Alvarado told her son that she did not know what was going on

and she was genuinely surprised when she found out there was cocaine in the car.

Flores-Alvarado was interviewed by law enforcement after the stop, but was released from custody shortly thereafter. After she was released, she went home to the apartment she shared with Mendez. She claimed that she had never met Pelaez-Vela, and only knew him to be Mendez's boss. She further testified that Pelaez-Vela had lied about meeting her in McAllen. On the day after Mendez's arrest, while looking for Mendez's mother's contact information, she decided to call Pelaez-Vela instead. She stated that Pelaez-Vela was the first one in Mendez's call history, and she thought it was important to let him know that his employee was in jail. Pelaez-Vela came to her apartment. She acknowledged that he had given her a phone and some money during their meeting, but that she never asked him for a phone. She further stated that she picked Mendez up from jail and confronted him about the traffic stop and drugs. However, he would not tell her anything because he did not want to get her involved.

On cross-examination, Flores-Alvarado indicated that Mendez had told her to call Pelaez-Vela if anything ever happened to him at work. She also confirmed that she did not disagree with any of the government's evidence showing the timeline of her and Mendez's travels, but she maintained she knew nothing about the cocaine in the car and how it got there.

Following her testimony, the parties gave their closing statements. During its closing rebuttal, the government suggested to

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the jury that it was not reasonable that Flores-Alvarado could have believed Mendez worked in construction after receiving photos of him with a lot of money and packages wrapped in plastic. After closing arguments, the district court instructed the jury. The court told the jury that the statements in closing arguments were neither evidence nor arguments on the law. After deliberation, the jury returned its verdict, finding Flores-Alvarado guilty on both counts. However, the jury found that the conspiracy did not involve cocaine attributable to Flores-Alvarado “in the amount of 5 kilograms or more.” As to Count Four, the jury found that Flores possessed, with intent to distribute, 500 grams of cocaine or more.

Sentencing

In advance of sentencing, a probation officer prepared a presentence investigation report (“PSI”), which calculated Flores-Alvarado’s total offense level to be 24 and her criminal history category to be I. This led to an advisory guidelines range of 51 months to 63 months. However, because the PSI concluded that Flores-Alvarado was subject to a five-year mandatory minimum sentence under 21 U.S.C. §§ 841(a)(1) & (b)(1)(B)(ii), the PSI calculated her guidelines range to be 60 to 63 months’ imprisonment, under U.S.S.G. § 5G1.2(b).

Flores-Alvarado objected to the PSI on two grounds. First, she argued that the PSI attributed too much cocaine to her and, therefore, the PSI’s guidelines range was incorrect. Second, she argued that she was eligible for safety-valve relief, under 18 U.S.C. § 3553(f). In a sentencing memorandum, Flores-Alvarado argued

she had truthfully disclosed all information regarding her offense to the government before trial and that, notwithstanding the jury's verdict, the court could grant her safety-valve relief because all of the elements of § 3553(f) were satisfied.

At sentencing, the district court agreed that Flores-Alvarado was only responsible for the cocaine found in the car during the traffic stop. Accordingly, it calculated her total offense level to be 22 and her criminal history category to be I, leading to a guidelines range of 41 to 51 months' imprisonment. However, the court determined that she was not entitled to the safety-valve and ruled that the mandatory minimum applied.

More specifically, the district court explained that Flores-Alvarado "never said [that] she knew that she was involved in drug dealing, that she was assisting [Mendez]." Instead:

[t]he jury found beyond a reasonable doubt that she did know. If I was the fact finder, I would find that she did know. But regardless of what I would say, the jury's verdict is now binding on this question. And so you have a situation where she knew, but she says she didn't know. It seems to me that all by itself shows that she has not fully debriefed.

Flores-Alvarado argued that, notwithstanding the jury's verdict, she could still be eligible for safety-valve relief because "there exists the possibility" that she told the government all she knew about the crime and yet was still criminally culpable for her conduct, despite having little knowledge about the conspiracy writ

large. The district court disagreed and overruled the objection. The district court then sentenced Flores-Alvarado to a mandatory minimum sentence of 60-months' imprisonment, to be followed by four years of supervised release. Flores-Alvarado now appeals her conviction and sentence.

II. STANDARDS OF REVIEW

We review the sufficiency of the evidence *de novo*. *United States v. Defilippis*, 174 F.4th 1291, 1301 (11th Cir. 2026). In doing so, we view “the evidence in the light most favorable to the government and draw[] all reasonable inferences and credibility choices in favor of the jury’s verdict.” *United States v. Trujillo*, 146 F.3d 838, 845 (11th Cir. 1998). “The relevant question in reviewing a sufficiency of the evidence claim is ‘whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *Id.* (emphasis in original) (quoting *United States v. Suba*, 132 F.3d 662, 671 (11th Cir. 1998)). “A jury is ‘free to choose among reasonable constructions of the evidence’ and ‘the government need not disprove every hypothesis of innocence’” *Defilippis*, 174 F.4th at 1301 (alterations adopted) (quoting *Suba*, 132 F.3d at 671–72). “The test for sufficiency of evidence is identical regardless of whether the evidence is direct or circumstantial, and no distinction is to be made between the weight given to either direct or circumstantial evidence.” *United States v. Guevara*, 894 F.3d 1301, 1307 (11th Cir. 2018) (quoting *United States v. Mieres-Borges*, 919 F.2d 652, 656–57 (11th Cir. 1990)).

Still, “[w]hen the government relies on circumstantial evidence, reasonable inferences, not mere speculation, must support the conviction.” *United States v. Mendez*, 528 F.3d 811, 814 (11th Cir. 2008).

We review legal issues, such as the proper interpretation of statutes and the Sentencing Guidelines, *de novo*. *United States v. Dubois*, 94 F.4th 1284, 1291 (11th Cir. 2024), *vacated*, 145 S. Ct. 1041 (2025), *and reinstated*, 139 F.4th 887 (11th Cir. 2025), *cert. denied*, ___ S. Ct. ___, 2026 WL 135685 (Jan. 20, 2026) (mem.); *Defilippis*, 174 F.4th at 1302 (“[W]e review *de novo* issues of statutory interpretation . . .”). Where a party “fails to preserve an objection in the district court,” however, we review only for plain error. *Defilippis*, 174 F.4th at 1302. “Plain error occurs when there is an ‘(1) error, (2) that is plain, and (3) that affects substantial rights.’” *Id.* at 1307–08 (quoting *United States v. Utsick*, 45 F.4th 1325, 1332 (11th Cir. 2022)). “If a defendant establishes these prerequisites,” we may correct an unpreserved error if we conclude that it “seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Id.* at 1308 (quoting *Utsick*, 45 F.4th at 1332).

III. DISCUSSION

Flores-Alvarado makes two arguments on appeal. First, she argues there was insufficient evidence to convict her of the conspiracy charge. She concedes there was sufficient evidence “that a conspiracy to possess with intent to distribute cocaine was formed,” and that other defendants were members of that conspiracy. However, she argues the government’s evidence did not establish that she was aware of the conspiracy and voluntarily participated in it.

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As part of this argument, she contends the prosecutor’s closing argument asked the jury to convict her because she acted “unreasonably,” as opposed to asking the jury whether she had knowledge and voluntarily joined the conspiracy. Second, she argues the district court made a legal error at sentencing when it ruled that it was bound by the jury’s verdict to deny her safety-valve relief. We address each issue in turn.

A. Sufficiency of the Evidence.

Under Section 841, it is unlawful for any person to knowingly or intentionally distribute, or possess with intent to distribute, a controlled substance—in this case, 500 grams or more of cocaine. 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(ii). Any person who attempts or conspires to commit such an offense shall be subject to the same penalties as those prescribed for the offense. *Id.* § 846. To prove a violation of § 846, the government must show that a conspiracy existed, that the defendant had knowledge of it, and that she voluntarily became part of it. *United States v. Badolato*, 701 F.2d 915, 920 (11th Cir. 1983).

A defendant’s mere presence at the scene of key events or association with a co-conspirator is insufficient to prove membership or involvement in a drug conspiracy, but presence may be a material or probative factor that the jury considers in reaching its decision. *United States v. Miranda*, 425 F.3d 953, 959 (11th Cir. 2005). “Guilty knowledge [of a drug conspiracy] can rarely be established directly,” but a jury may infer knowledge, “[f]or example, if a defendant was instrumental to a plan’s success, had ample

opportunities to discover the critical fact, and was in frequent contact with someone who knew that fact” *United States v. Colston*, 4 F.4th 1179, 1190 (11th Cir. 2021).

In addition, a statement by a defendant, if disbelieved by the jury, may be considered as substantive evidence of the defendant’s guilt. *United States v. Brown*, 53 F.3d 312, 314 (11th Cir. 1995). Thus, when a defendant chooses to testify, she runs the risk that if disbelieved, the jury might conclude the opposite of her testimony is true. *Id.*; see also *United States v. Beaufile*, 160 F.4th 1147, 1164 (11th Cir. 2025) (“[T]he jury could have disbelieved [the defendant]’s own testimony and considered her statements as substantive evidence of her guilt.”). Further, a jury “is free to believe the testimony of one witness and reject the testimony of another,” *United States v. Murray*, 527 F.2d 401, 410 (5th Cir. 1976), or to believe only portions of a witness’s testimony, *Globe Indem. Co. v. Richerson*, 315 F.2d 3, 5 (5th Cir. 1963) (“A jury is ordinarily entitled to believe all, any part of, or none of a witness’ testimony.”).⁵

Based on the record in this case, there was sufficient evidence from which “a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Trujillo*, 146 F.3d at 845 (quoting *Suba*, 132 F.3d at 671). The government’s case included evidence that Flores-Alvarado drove with Mendez on at least two separate occasions during which he obtained

⁵ Decisions issued by the former Fifth Circuit “handed down by that court prior to close of business” on September 30, 1981, are binding upon this Court. *Bonner v. City of Prichard, Ala.*, 661 F.2d 1206, 1210 (11th Cir. 1981) (*en banc*).

significant amounts of cocaine, and there was a photograph that Flores-Alvarado received from Mendez that showed Mendez with a large amount of money and wrapped packages. In addition, Flores-Alvarado warned Mendez about the presence of police and expressed concerns for his safety, and testimony established that she was present during conversations relating to drug trafficking. The trial evidence also showed that Flores-Alvarado was in a hotel room with Mendez with wrapped packages of cocaine and a large amount of money. Moreover, she was present during an exchange of money with a purported money launderer. Finally, the evidence included Flores-Alvarado's own testimony about her knowledge, which the jury was entitled to disbelieve and consider as evidence of her guilt. *Brown*, 53 F.3d at 314; *Beaufils*, 160 F.4th at 1164.

Thus, there was sufficient evidence to support the jury's verdict. *Trujillo*, 146 F.3d at 845. Flores-Alvarado concedes that there was sufficient evidence to prove that there was a drug conspiracy and that her boyfriend (among other participants) participated in that conspiracy. She only challenges her knowledge of, and willful participation in, the conspiracy. While much of the evidence in support of her involvement in the conspiracy was circumstantial evidence, the jury was permitted to make "reasonable inferences" that Flores-Alvarado was guilty; the jury was not left to "mere[ly] speculat[e]" that she was. *Mendez*, 528 F.3d at 814. A reasonable construction of the evidence supports the jury's conclusion that

Flores-Alvarado knew what was happening and voluntarily assisted Mendez's trips despite that knowledge.⁶

To the extent that Flores-Alvarado challenges portions of the prosecutor's closing argument, we would only review that issue for plain error because she did not raise this objection before the district court. *See Defilippis*, 174 F.4th at 1302, 1307–08. In any event, there was no harmful error because, even assuming the prosecutor's wording was imprecise or improper, the district court correctly instructed the jury that the closing arguments were not evidence or instructions on the law. *See United States v. Almanzar*, 634 F.3d 1214, 1222 (11th Cir. 2011) (“[W]e presume the jury complied with [the district court's] instruction.”); *United States v. Verdeza*, 69 F.4th 780, 792 (11th Cir. 2023) (similar). “Because statements and arguments of counsel are not evidence, improper statements can be rectified by the district court's instruction to the jury that only the evidence in the case be considered.” *United States v. Lopez*, 590 F.3d 1238, 1256 (11th Cir. 2009) (quoting *United States v. Smith*, 918 F.2d 1551, 1562 (11th Cir. 1990)). Therefore, any error in closing argument does not support Flores-Alvarado's argument.

For these reasons, we affirm the jury's verdict as to both the conspiracy and possession charges.

⁶ In addition, even if Flores-Alvarado is correct that the jury rejected portions of Pelaez-Vela's testimony, its verdict does not suggest that it rejected his testimony about her presence during his conversations with Mendez. *See Brown*, 53 F.3d at 314; *Murray*, 527 F.2d at 410; *Richerson*, 315 F.2d at 5.

B. Sentencing Error.

As to her sentence, Flores-Alvarado argues that the district court's denial of her request for safety valve relief was "based on the court's erroneous interpretation" of 18 U.S.C. § 3553(f)(5) and U.S.S.G. § 5C1.2(a)(5). More specifically, she contends the district court erred when it ruled that the jury's verdict required it to deny safety-valve relief. The government responds that the district court did not clearly err by finding "that Flores[-Alvarado] had knowledge of the cocaine and was guilty of her crimes of conviction" and, thus, that she had not truthfully provided all the information she had regarding her crimes and relevant conduct.

"It seems to us that [Flores-Alvarado] and the government are talking past one another." *United States v. Pulido*, 133 F.4th 1256, 1271 (11th Cir. 2025). It is true, as the government argues, that district court factfinding is subject to clear error review; a very deferential standard. *See, e.g., United States v. Little*, 864 F.3d 1283, 1290 (11th Cir. 2017). However, Flores-Alvarado's argument is not that the district court made a clearly erroneous factual finding; it is that the court made an error of law. We review legal issues *de novo*, not for clear error. *See Dubois*, 94 F.4th at 1291; *Defilippis*, 174 F.4th at 1302; *cf. United States v. Mathews*, 874 F.3d 698, 709 (11th Cir. 2017) ("[A]lthough a district court has broad discretion to grant or deny a reduction under [the Guidelines], a court errs if it believes that it does not have the authority to grant such a downward reduction.").

In order to qualify for safety-valve relief, a defendant must satisfy five requirements. 18 U.S.C. § 3553(f); U.S.S.G. § 5C1.2(a). Only one of those requirements is at issue here—that the defendant “truthfully provide[] to the Government all information and evidence [she] has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan” 18 U.S.C. § 3553(f)(5); U.S.S.G. § 5C1.2(a)(5) (same). To satisfy this obligation, “the defendant has an affirmative responsibility to ‘truthfully disclose to the government all information and evidence that [s]he has about the offense and all relevant conduct.’” *United States v. Johnson*, 375 F.3d 1300, 1302 (11th Cir. 2004) (quoting *United States v. Yate*, 176 F.3d 1309, 1310 (11th Cir. 1999)).

The sentencing court determines whether a defendant qualifies for safety-valve relief and is not bound by a jury’s determination in making the relevant findings. *See Pulsifer v. United States*, 601 U.S. 124, 127 (2024) (explaining that the provision “enable[es] courts to give [defendants] lighter prison terms” (emphasis added)); *United States v. Brownlee*, 204 F.3d 1302, 1305 (11th Cir. 2000) (“The question of whether the information [the defendant] supplied to the government the morning of his sentencing was truthful and complete . . . is a factual finding for the district court.”); *United States v. Espinosa*, 172 F.3d 795, 797 (11th Cir. 1999) (“The district court erred in deferring to the Government; the responsibility for determining the truthfulness of the information the defendant provided to the Government was the court’s.”); *see also United States v. Sherpa*, 110 F.3d 656, 662 (9th Cir. 1996) (“[T]he safety valve requires a separate judicial determination of compliance which need

not be consistent with a jury’s findings.”). That conclusion is made clear by the text of § 3553, which, throughout its several subsections, requires a sentencing court to make certain determinations, and does not reference juries or their verdicts.⁷ The text of the operative subsection is likewise directed at the sentencing court. *See* 18 U.S.C. § 3553(f) (“Notwithstanding any other provision of law . . . the court shall impose a sentence . . . without regard to any statutory minimum sentence, *if the court finds* [the statutory criteria] at sentencing, after the Government has been afforded the opportunity to make a recommendation” (emphasis added)).

In light of the foregoing, Flores-Alvarado is correct that the district court made a legal error. The court ruled that, “regardless of what [it] would say” on the issue, “the jury’s verdict [wa]s now binding” as to this safety valve relief requirement. Yet, the district court—not the government nor the jury—was required to determine Flores-Alvarado’s safety valve eligibility. *See* 18 U.S.C. § 3553(f); *Pulsifer*, 601 U.S. at 127; *Brownlee*, 204 F.3d at 1305; *Espinosa*, 172 F.3d at 797; *Sherpa*, 110 F.3d at 662. Thus, “the record indicates that the district court erroneously believed that . . . , as a

⁷ *See* 18 U.S.C. § 3553(a) (“The court shall impose”); *id.* (“The court, in determining”); *id.* § 3553(c) (“The court, at the time of sentencing, shall state in open court the reasons for its imposition of the particular sentence”); *id.* § 3553(d) (“[T]he court shall give notice to the defendant and the Government that it is considering imposing such an order”); *id.* § 3553(e) (“Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as a minimum sentence so as to reflect a defendant’s substantial assistance in the investigation or prosecution of another person who has committed an offense.”).

matter of law, . . . it did not have the authority to grant” Flores-Alvarado’s request for safety-valve relief. *Mathews*, 874 F.3d at 709. “This was error.” *Id.*

However, we generally review legal errors for harmlessness. FED. R. CRIM. P. 52(a) (stating that errors that do “not affect substantial rights must be disregarded”). The government ordinarily bears the burden of proving harmlessness, *see United States v. Rodriguez*, 75 F.4th 1231, 1249 n.9 (11th Cir. 2023), and it does not argue the district court’s error was harmless here. Nonetheless, we may raise the issue of harmlessness *sua sponte*, especially when “it is patently obvious.” *United States v. Adams*, 1 F.3d 1566, 1576 (11th Cir. 1993); *see also United States v. Graham*, 123 F.4th 1197, 1272 (11th Cir. 2024) (explaining that we are less likely to “exercise [our] *sua sponte* discretion” when “the harmlessness of the error is far from certain”). Here, the harmlessness of this error is clear, so we exercise our discretion to affirm on that basis. *Adams*, 1 F.3d at 1576; *Graham*, 123 F.4th at 1272.

As discussed, the district court erroneously believed that it was bound by the jury’s verdict to deny Flores-Alvarado’s request for safety-valve relief. However, it also stated that “if [it] was the fact finder, [it] would find that [Flores-Alvarado] did know” that she was involved in drug dealing by assisting Mendez. Therefore, we know that, if we remand for resentencing, the district court’s findings would mirror those that the jury made—Flores-Alvarado did not “truthfully provide[] to the Government all information and evidence [she] ha[d]” about her conduct because she knew about

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the drug conspiracy and denied it. 18 U.S.C. § 3553(f)(5); U.S.S.G. § 5C1.2(a)(5). This finding, which we are confident the district court would make given its comments, would again render Flores-Alvarado ineligible for the safety-valve. *Johnson*, 375 F.3d at 1302; *Yate*, 176 F.3d at 1310. Accordingly, if the district court exercised the discretion that it erroneously believed it did not have, the outcome of the case would be the same. See *United States v. Keene*, 470 F.3d 1347, 1349 (11th Cir. 2006) (finding harmlessness where “a decision either way will not affect the outcome of this case . . . because the district court told us that the [ruling] made no difference”). “When an error would not change the achieved result, it is harmless.” *United States v. Robles*, 408 F.3d 1324, 1328 (11th Cir. 2005). Accordingly, we affirm on this issue as well. See FED. R. CRIM. P. 52(a); *Robles*, 408 F.3d at 1328 (“[W]e know with certainty beyond a reasonable doubt what the district court would do upon remand.”).

IV. CONCLUSION

For the reasons we have explained, we affirm Flores-Alvarado’s convictions, which are supported by sufficient evidence. We also affirm her sentence because, even though the district court made an error of law, that error was harmless.

AFFIRMED.