

FEB 26 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALBERT CARL CAMACHO, aka Albert
Camacho,

Defendant - Appellant.

No. 08-50172

D.C. No. 3:07-cr-03382-LAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Albert Carl Camacho appeals from the 75-month sentence imposed following his guilty-plea conviction for importation of methamphetamine, in

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 21 U.S.C. §§ 952 and 960. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Camacho contends that the district court erred by denying a downward adjustment for being a minor participant in the criminal scheme under U.S.S.G. § 3B1.2. We conclude that the district court did not clearly err. *See United States v. Cantrell*, 433 F.3d 1269, 1282-83 (9th Cir. 2006); *see also United States v. Hursh*, 217 F.3d 761, 770 (9th Cir. 2000).

Camacho also contends that the government breached the plea agreement by arguing on appeal that the district court did not err in refusing to grant him a minor role adjustment, and that the government is estopped from taking this position on appeal. A plain reading of the plea agreement demonstrates that the government is not bound to any position regarding a minor role adjustment on appeal. *See United States v. Schuman*, 127 F.3d 815, 817-18 (9th Cir.1997) (per curiam).

AFFIRMED.