

MAR 02 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN ENRIQUE JIMENEZ,

Defendant - Appellant.

No. 09-50337

D.C. No. 3:09-CR-00322-JM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Jeffrey T. Miller, District Judge, Presiding

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Juan Enrique Jimenez appeals from the 13-month sentence imposed following his guilty-plea conviction for importation of marijuana, in violation of

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

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

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

Jimenez contends that the district court clearly erred at sentencing by denying a minor-role adjustment pursuant to U.S.S.G. § 3B1.2. He further contends that the district court improperly based its decision on factors unrelated to Jimenez's level of participation in the offense. The record reflects that the district court considered appropriate factors when determining whether Jimenez met his burden of proving that he was a minor participant in the offense, and that it did not clearly err by concluding that Jimenez had not met his burden. *See United States v. Cantrell*, 433 F.3d 1269, 1282-83 (9th Cir. 2006); *United States v. Pena-Gutierrez*, 222 F.3d 1080, 1091-92 (9th Cir. 2000).

AFFIRMED.