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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>PRISCILLA MARILYN FINAU,</p> <p>Defendant - Appellant.</p>

No. 10-30232

D.C. No. 3:09-cr-00022-TMB

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
Timothy M. Burgess, District Judge, Presiding

Submitted June 15, 2011**

Before: CANBY, O’SCANNLAIN, and FISHER, Circuit Judges.

Priscilla Marilyn Finau appeals from the 51-month sentence imposed following her guilty-plea conviction for drug conspiracy, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(A) & (B). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Finau contends that the district court erred in denying her a minor role adjustment under U.S.S.G. § 3B1.2. On appeal, Finau argues for the first time that her role should have been compared to hypothetical other “likely participants” in the conspiracy, rather than just to the role of her co-defendant. Even if this argument were not waived, Finau’s speculation about other possible participants, without providing any evidentiary support, fails to meet her burden of proving that she is entitled to a minor role adjustment. *See United States v. Rosas*, 615 F.3d 1058, 1068-69 (9th Cir. 2010).

Finau also contends that her sentence is substantively unreasonable. In light of the totality of the circumstances and the 18 U.S.C. § 3553(a) factors, the sentence, six months below the bottom of the Guidelines range, is not substantively unreasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.