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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NOT FOR PUBLICATION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.

JOSE MARAVILLA-LEON,

Defendant - Appellant.

No. 11-10404

D.C. No. 4:09-cr-01865-RCC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Raner C. Collins, District Judge, Presiding

Submitted March 6, 2012\*\*

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Jose Maravilla-Leon appeals from the 46-month sentence imposed following his jury-trial conviction for possession with intent to distribute marijuana, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(D). We have jurisdiction under

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\* 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).

28 U.S.C. § 1291, and we affirm.

Maravilla-Leon contends that the district court erred by denying a minor role adjustment pursuant to U.S.S.G. § 3B1.2(b). The district court did not clearly err in denying the adjustment. *See* U.S.S.G. § 3B1.2 cmt. n. 3(A); *United States v. Hursh*, 217 F.3d 761, 770 (9th Cir. 2000).

Maravilla-Leon also contends that because the jury did not make a weight determination as to the weight of the drugs seized, the district court was limited to a weight determination of 50 kilograms pursuant to 21 U.S.C. § 841(b)(1)(D). This argument fails because the district court may determine drug quantity as long as that determination does not have the effect of increasing the statutory maximum sentence. *See United States v. Alvarez*, 358 F.3d 1194, 1211-12 (9th Cir. 2004).

**AFFIRMED.**