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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NOT FOR PUBLICATION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.

PEDRO RODRIGUEZ,

Defendant - Appellant.

No. 13-10160

D.C. No. 3:12-cr-00262-JSW-1

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted June 11, 2014**
San Francisco, California

Before: O'SCANNLAIN and BEA, Circuit Judges, and HAYES, District Judge.***

* 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. Fed. R. App. P. 34(a)(2).

*** The Honorable William Q. Hayes, United States District Judge for the Southern District of California, sitting by designation.

Rodriguez appeals from the 150-month sentence imposed following his guilty plea conviction for drug crimes involving importation of methamphetamine and cocaine, in violation of 21 U.S.C. §§ 841(a)(1), 952(a), and 963. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Rodriguez contends that the district court erred at sentencing by denying him a minor role adjustment and failing to grant safety valve. Rodriguez asserts that the sentence imposed was procedurally flawed and substantively unreasonable.

The district court properly considered the particular facts regarding this particular defendant and did not clearly err by determining that Rodriguez was not eligible for the minor role adjustment. *See United States v. Rodriguez-Castro*, 641 F.3d 1189, 1193 (9th Cir. 2011). Since Rodriguez repeatedly refused to answer questions related to his co-conspirators in the proffer, the district court did not clearly err in determining that Rodriguez did not meet his burden to show his eligibility for safety valve relief. *See United States v. Mejia-Pimental*, 477 F.3d 1100, 1105 (9th Cir. 2007).

The district court correctly calculated the guideline range to be 210 to 262 months. The 150-month sentence imposed by the district court was not procedurally flawed or substantively unreasonable. *See United States v. Carty*, 520 F.3d 984, 991–994 (9th Cir. 2008).

AFFIRMED.