

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 28 2015

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARLENI DEL CARMEN
ARANA-CHAVARRIA,

Defendant - Appellant.

No. 14-50171

D.C. No. 3:13-cr-03587-DMS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted January 21, 2015**

Before: CANBY, GOULD, and N.R. SMITH, Circuit Judges.

Marleni Del Carmen Arana-Chavarria appeals from the district court's judgment and challenges the 60-month sentence imposed following her guilty-plea conviction for importation of methamphetamine, in violation of 21 U.S.C. §§ 952

* 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).

and 960. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Arana-Chavarria contends that the district court erred by failing to compare her culpability to that of other participants in the drug smuggling organization when it denied her a minor role adjustment under U.S.S.G. § 3B1.2(b). We review de novo the district court's interpretation of the guidelines and for clear error the district court's factual determination that a defendant is not a minor participant. *See United States v. Hurtado*, 760 F.3d 1065, 1068 (9th Cir. 2014). Contrary to Arana-Chavarria's contention, the record reflects that the court properly considered Arana-Chavarria's culpability relative to that of the average participant. *See* U.S.S.G. § 3B1.2 cmt. n.3(A). Further, in light of the totality of the circumstances, the district court did not clearly err in determining that Arana-Chavarria failed to prove that she was entitled to the adjustment. *See id.* § 3B1.2 cmt. n.3(C); *Hurtado*, 760 F.3d at 1069.

AFFIRMED.