

APR 28 2015

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EILEEN ANN GARCIA,

Defendant - Appellant.

No. 14-50198

D.C. No. 3:13-cr-03761-BEN

MEMORANDUM*

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

Submitted April 22, 2015**

Before: GOODWIN, BYBEE, and CHRISTEN, Circuit Judges.

Eileen Ann Garcia appeals from the district court's judgment and challenges the 71-month sentence imposed following her guilty-plea conviction for importation of methamphetamine and aiding and abetting, in violation of 21 U.S.C.

* 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).

§§ 952 and 960 and 18 U.S.C. § 2. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Garcia contends that the district court committed two legal errors in denying her request for a minor role adjustment under U.S.S.G. § 3B1.2. First, she contends that the court failed to take into account her lack of actual knowledge of the drugs in the truck or the structure and operations of the smuggling organization. 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), *cert. denied* 135 S. Ct. 1467 (2015). The district court did not clearly err in determining that Garcia failed to prove that she was entitled to the adjustment. The court properly considered the totality of the circumstances in making its determination, including Garcia's knowledge and understanding of the criminal enterprise. *See Hurtado*, 760 F.3d at 1069.

Garcia next contends that the district court erred by preventing defense counsel from addressing Garcia's role in bringing her co-defendant into the offense. Contrary to Garcia's contention, the record reveals that her counsel was

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afforded opportunities to present arguments in favor of the minor role adjustment and to address the relevant facts. *See* Fed. R. Crim. P. 32(i)(4)(A)(i).

AFFIRMED.