

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 25 2015

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 14-50587

Plaintiff - Appellee,

D.C. No. 3:14-cr-02474-AJB

v.

MEMORANDUM\*

HEATHER VILLA,

Defendant - Appellant.

Appeal from the United States District Court  
for the Southern District of California  
Anthony J. Battaglia, District Judge, Presiding

Submitted September 21, 2015\*\*

Before: REINHARDT, LEAVY, and BERZON, Circuit Judges.

Heather Villa appeals from the district court's judgment and challenges the 51-month sentence imposed following her guilty-plea conviction for importation of methamphetamine, in violation of 21 U.S.C. §§ 952 and 960. We have

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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). Villa's motion for oral argument is denied.

jurisdiction under 28 U.S.C. § 1291, and we vacate and remand for resentencing.

Villa contends that the district court erred by denying her request for a minor role reduction pursuant to U.S.S.G. § 3B1.2(b). We review the district court's interpretation of the Guidelines de novo and for clear error the 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 denied the reduction based on factors that have not been recognized by this court. *See id.* at 1069. Looking to the factors this court has recognized and the facts of this case, it appears that Villa may be entitled to the adjustment. *See* U.S.S.G. § 3B1.2 cmt. n.3(A), (C); *Hurtado*, 760 F.3d at 1069. Accordingly, we vacate and remand for resentencing. Upon resentencing, the district court shall consider Villa's request for a minor role reduction in light of the factors articulated in *Hurtado*.

**VACATED and REMANDED for resentencing.**