

OCT 19 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NOT FOR PUBLICATION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.

GUSTAVO GAYTAN-SALIM,

Defendant - Appellant.

No. 14-50493

D.C. No. 3:14-cr-01123-LAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted October 14, 2015**

Before: SILVERMAN, BYBEE, and WATFORD, Circuit Judges.

Gustavo Gaytan-Salim appeals from the district court's judgment and challenges the 75-month sentence imposed following his guilty-plea conviction for importation of methamphetamine, in violation of 21 U.S.C. §§ 952 and 960. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Gaytan-Salim contends that the district court erred by declining to award a minor-role adjustment under U.S.S.G. § 3B1.2(b). We review a district court's interpretation of the Guidelines de novo and its determination that a defendant was not a minor role participant for clear error. *See United States v. Hurtado*, 760 F.3d 1065, 1068 (9th Cir. 2014), *cert. denied*, 135 S.Ct. 1467 (2015). The record reflects that the court properly applied the Guidelines and our precedent, considering the totality of the circumstances as well as Gaytan-Salim's role in the smuggling operation. *See id.* at 1068-69; *United States v. Rodriguez-Castro*, 641 F.3d 1189, 1193 (9th Cir. 2011). The district court did not clearly err in denying the adjustment. *See Hurtado*, 760 F.3d at 1068-69.

AFFIRMED.