

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 19 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-50036

Plaintiff-Appellee,

D.C. No. 3:15-cr-02874-BAS

v.

MEMORANDUM*

SELENA PEREZ,

Defendant-Appellant.

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

Submitted January 16, 2018**

Before: REINHARDT, TROTT, and HURWITZ, Circuit Judges.

Selena Perez appeals from the district court's judgment and challenges the 100-month sentence imposed following her 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.

Perez contends that the district court procedurally erred by failing to address

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

her mitigating arguments and by failing to appreciate its discretion to vary from the Guidelines on policy grounds under *Kimbrough v. United States*, 552 U.S. 85 (2007). Reviewing de novo, see *United States v. Hammons*, 558 F.3d 1100, 1103 (9th Cir. 2009), we conclude that the district court did not err. The record reflects that the district court considered Perez's mitigating arguments and departed downward in response. Moreover, the record shows that the district court understood its discretion to vary from the Guidelines on policy grounds but chose not to exercise that discretion. See *United States v. Henderson*, 649 F.3d 955, 964 (9th Cir. 2011).

AFFIRMED.