

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 18 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-50052

Plaintiff-Appellee,

D.C. No. 3:15-cr-00826-BEN

v.

MEMORANDUM*

JESUS RAMON BERRELLEZA,

Defendant-Appellant.

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

Submitted May 15, 2018**

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

Jesus Ramon Berrelleza appeals from the district court's judgment and challenges the 144-month sentence imposed upon remand 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 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).

Berrelleza contends that the district court erred by denying his request for a minor role reduction under U.S.S.G. § 3B1.2. He argues that the court improperly refused to compare him to his likely co-participants in the offense, and did not consider each of the five factors set forth in the commentary to the Guideline.

We decline to decide whether the district court's analysis of Berrelleza's request for a minor role reduction was deficient because the record reflects that any error was harmless. *See United States v. Ali*, 620 F.3d 1062, 1074 (9th Cir. 2010) (when an alleged error is harmless, it is not grounds for resentencing). This appeal followed the court's second denial of a minor role adjustment. After noting Berrelleza's prior drug smuggling offense, the court explained that "there is no way in the world ... that I would find that this defendant should be given minor role in this case." Under these circumstances, we conclude that, even absent the alleged deficiencies in the court's minor role analysis, it would have denied the reduction.

AFFIRMED.