

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 23 2026

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID ROSALES-SOTO,

Defendant - Appellant.

No. 25-3324

D.C. No.

2:20-cr-00024-TJH-3

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Terry J. Hatter, Jr., District Judge, Presiding

Submitted October 21, 2026**
Pasadena, California

Before: BUMATAY, VANDYKE, and MENDOZA Jr., Circuit Judges.

In this criminal-sentencing appeal, David Rosales-Soto challenges his 60-month sentence on two grounds: that the district court should have found that he was a minimal rather than a minor participant in the offense and that his sentence is

* 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).

substantively unreasonable because it creates an unwarranted disparity with his codefendants' sentences. We have jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742. We affirm.

1. We review the district court's selection of a sentencing guideline de novo, findings of fact for clear error, and application of Sentencing Guidelines to the facts of the case for abuse of discretion. *United States v. Gasca-Ruiz*, 852 F.3d 1167, 1170 (9th Cir. 2017) (en banc). The district court applied the correct legal standard in declining to impose a four-level reduction for minimal participation. The parties addressed *United States v. Dominguez-Caicedo*, 40 F.4th 938 (9th Cir. 2022), and the U.S.S.G. § 3B1.2 standards in their sentencing memoranda and again at sentencing, and the court considered that standard in determining that a two-level minor-role adjustment was warranted.

Nor did the district court abuse its discretion by granting Rosales-Soto a two-level reduction for minor participation under U.S.S.G. § 3B1.2(b) rather than a four-level reduction for minimal participation under U.S.S.G. § 3B1.2(a). A minimal-participant reduction is reserved for a defendant who is "plainly among the least culpable of those involved in the conduct of [the] group." U.S.S.G. § 3B1.2 cmt. 4. We cannot say the district court's determination that Rosales-Soto did not fall within that category was "illogical, implausible, or without support in inferences that may be drawn from facts in the record." *Gasca-Ruiz*, 852 F.3d at

1175 (quoting *United States v. Hinkson*, 585 F.3d 1247, 1251 (9th Cir. 2009) (en banc)). The large quantity of drugs Rosales-Soto was tasked with delivering, together with the language used in communications between the codefendants, provided a reasonable basis for finding that his role was greater than that of a minimal participant. Those considerations bear directly on the factors relevant to § 3B1.2. U.S.S.G. § 3B1.2 cmt. 3(C).

2. The district court did not abuse its discretion by imposing a 60-month sentence. Rosales-Soto points to his sister’s 15-month sentence and another codefendant’s 29-month sentence and argues that those disparities make his sentence unreasonable. But “[a] disparity in sentencing among co-defendants is not, by itself, a sufficient ground for attacking an otherwise proper sentence under the guidelines.” *United States v. Bussell*, 504 F.3d 956, 963 (9th Cir. 2007). And the record shows that the district court adequately considered the relevant sentencing factors. *United States v. Diaz*, 884 F.3d 911, 914–15 (9th Cir. 2018) (“It is also well established that a district court need not tick off sentencing factors to show that it considered them, because we assume that the district court knows and applies the law correctly.” (citation modified)). Although Rosales-Soto’s Guidelines range was 70 to 87 months, probation recommended a 60-month downward variance. The district court adopted that recommendation. *See United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (stating that an “adequate

explanation” for a sentence “may also be inferred from the PSR or the record as a whole”).

AFFIRMED.