

MAY 21 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MANUEL AVAID MACHADO
SANCHEZ,

Defendant - Appellant.

No. 13-50244

D.C. No. 3:13-cr-00612-LAB

MEMORANDUM*

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

Submitted May 13, 2014**

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

Manuel Aavid Machado Sanchez appeals from the district court's judgment and challenges the 51-month sentence imposed following his guilty-plea conviction for importation of cocaine, in violation of 21 U.S.C. §§ 952 and 960.

* 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).

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Machado Sanchez contends that the district court misapplied the Guidelines and used improper standards and factors to deny his request for a minor role adjustment under U.S.S.G. § 3B1.2(b). We review de novo the district court's interpretation of the Guidelines and for clear error its factual determination that a defendant is not a minor participant. *See United States v. Rodriguez-Castro*, 641 F.3d 1189, 1192 (9th Cir. 2011).

The record reflects that the court followed the Guidelines by comparing Machado Sanchez's conduct to that of the average participant and properly considered the totality of the circumstances in making its minor-role determination. *See* U.S.S.G. § 3B1.2 cmt. n.3(A), (C). The district court's finding that Machado Sanchez was not substantially less culpable than the average participant was not clearly erroneous. *See* U.S.S.G. § 3B1.2 cmt. n.3(A); *Rodriguez-Castro*, 641 F.3d at 1192-93.

Machado Sanchez also contends that his sentence is substantively unreasonable. The district court did not abuse its discretion in imposing Machado Sanchez's sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007). The sentence in the middle of the advisory Guidelines range is substantively reasonable in light of the totality of the circumstances and 18 U.S.C. § 3553(a) sentencing

factors. *See id.*

AFFIRMED.