

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JUL 17 2017

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

CARLOS ANTONIO CERVANTES,

Defendant-Appellant.

No. 15-50405

D.C. No. 2:14-cr-00571-AB-3

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
André Birotte, Jr., District Judge, Presiding

Submitted July 11, 2017**

Before: CANBY, KOZINSKI, and HAWKINS, Circuit Judges.

Carlos Antonio Cervantes appeals from the district court's judgment and challenges the 78-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to distribute marijuana, in violation of 21 U.S.C.

* 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).

§§ 841(a)(1), (b)(1)(C), and 846. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Cervantes contends that he is entitled to resentencing under *United States v. Quintero-Leyva*, 823 F.3d 519 (9th Cir. 2016), because the district court did not consider the 2015 amendment to the minor role guideline, U.S.S.G. § 3B1.2, when evaluating his request for a minor role reduction. We decline to remand because the record reflects that the district court considered the amendment in concluding that Cervantes and his two co-conspirators were not entitled to a minor role adjustment. The record makes clear that the court would not reach a different conclusion if Cervantes's case were remanded.

AFFIRMED.