

FEB 21 2017

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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NOT FOR PUBLICATION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.

ERIC BAUTISTA,

Defendant-Appellant.

No. 15-50489

D.C. No. 3:15-cr-01613-DMS

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Dana M. Sabraw, District Judge, Presiding

Submitted February 14, 2017\*\*

Before: GOODWIN, FARRIS, and FERNANDEZ, Circuit Judges.

Eric Bautista appeals from the district court's judgment and challenges the 60-month sentence imposed following his guilty-plea convictions for importation of heroin and methamphetamine, in violation of 21 U.S.C. §§ 952 and 960. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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\* 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).

Bautista contends that the district court erred by failing to apply the revised commentary when considering his request for a minor role reduction under U.S.S.G. § 3B1.2(b). We review the district court’s interpretation of the Guidelines de novo. *See United States v. Quintero-Leyva*, 823 F.3d 519, 522 (9th Cir. 2016). The record reflects that Bautista’s counsel discussed the five factors enumerated in the commentary during the sentencing hearing and, contrary to Bautista’s suggestion, the district court was not required to “tick off” these factors, *see United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc), nor was it required to weigh the factors in a particular manner, *see Quintero-Leyva*, 823 F.3d at 523.

**AFFIRMED.**