

JAN 24 2017

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DANIELLE TRINITTI KOWNACKI,

Defendant-Appellant.

No. 15-50503

D.C. No. 3:14-cr-03668-JLS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Janis L. Sammartino, District Judge, Presiding

Submitted January 18, 2017**

Before: TROTT, TASHIMA, and CALLAHAN, Circuit Judges.

Danielle Trinitti Kownacki appeals from the district court's judgment and challenges the 63-month sentence imposed following her guilty-plea conviction for

* 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). Appellant's request for oral argument is denied.

importation of heroin and methamphetamine, in violation of 21 U.S.C. §§ 952, 960. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Kownacki argues that the district court erred in denying a minor role reduction to her base offense level under U.S.S.G. § 3B1.2. The district court did not clearly err in finding, based on Kownacki's level of involvement in the drug trafficking scheme and the remuneration she received, that she was not "substantially less culpable" than the average participant in the offense. *See* U.S.S.G. § 3B1.2 cmt. n.3(A); *United States v. Hurtado*, 760 F.3d 1065, 1068 (9th Cir. 2014). Contrary to Kownacki's contention, a different result is not required under the factors enumerated in Amendment 794 to the minor role Guideline, *see* U.S.S.G. § 3B1.2 cmt. n.3(C) (2015), which was in effect at the time of Kownacki's sentencing and discussed at the sentencing hearing.

AFFIRMED.