

JAN 23 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NOT FOR PUBLICATION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.

LUCINA ROJO-RIVAS,

Defendant-Appellant,

No. 15-50564

D.C. No. 3:15-cr-01474-BEN

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Submitted January 18, 2017**

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

Lucina Rojo-Rivas appeals from the district court's judgment and challenges the 55-month concurrent sentences imposed following her guilty-plea convictions for importation of methamphetamine and heroin, in violation of 21 U.S.C. §§ 952 and 960. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

Rojo-Rivas contends that the district court erred by denying a minor role reduction to her base offense level under U.S.S.G. § 3B1.2(b). She argues that the district court failed to consider Amendment 794, which amended the commentary to the minor role Guideline, and that the court clearly erred in finding that she did not play a minor role in the offense. We need not reach these issues because we conclude that any error in the district court's application of the minor role Guideline was harmless. The district court calculated the Guidelines range with and without the minor role reduction and explained the basis for the 55-month sentence under each range. *See United States v. Munoz-Camarena*, 631 F.3d 1028, 1030 n.5 (9th Cir. 2011).

AFFIRMED.