

FEB 22 2011

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NOT FOR PUBLICATION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.

PARVIN ATABAY,

Defendant - Appellant.

No. 10-50159

D.C. No. 2:07-cr-00375-SJO

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
S. James Otero, District Judge, Presiding

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

Parvin Atabay appeals from the 18-month sentence imposed following her guilty-plea conviction for five counts of health fraud, in violation of 18 U.S.C. § 1347. 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 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).

Atabay contends that the district court erred by applying a three-level increase, pursuant to U.S.S.G. § 3B1.1(b), based on her role in the offense. The district court did not clearly err in applying the enhancement for her role in the offense because, among other things, she owned and managed the clinic where the fraud occurred, paid and directed the recruiters, advised the marketers to set up corporations for themselves, and submitted bills containing materially false statements to the insurance companies. *See United States v. Koenig*, 952 F.2d 267, 274 (9th Cir. 1991).

Atabay also contends that the district court erred by not making factual findings supporting the role enhancement. The record reflects that the district court made adequate factual findings to support the enhancement. *See United States v. Maldonado*, 215 F.3d 1046, 1051 (9th Cir. 2000) (“[T]he district court may, without error, rely on evidence presented in the PSR to find by a preponderance of the evidence that the facts underlying a sentence enhancement have been established.”).

AFFIRMED.