

DEC 05 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>VICTOR VALLADARES-REAL,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 12-50000

D.C. No. 3:10-cr-05025-H

MEMORANDUM*

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

Submitted November 19, 2013**

Before: CANBY, TROTT, and THOMAS, Circuit Judges.

Victor Valladares-Real appeals from the district court’s judgment and challenges the 168-month sentence imposed following his guilty-plea conviction for conspiracy to distribute controlled substances, in violation of 21 U.S.C.

* 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).

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

Valladares-Real contends that the district court erred by denying him a two-level minor-role adjustment under U.S.S.G. § 3B1.2(b). We review for clear error, *see United States v. Rosas*, 615 F.3d 1058, 1066 (9th Cir. 2010), and find none.

Because Valladares-Real failed to demonstrate that he was “substantially less culpable than the average participant,” the district court correctly denied the adjustment. *See* U.S.S.G. § 3B1.2 cmt. n.3(A); *Rosas*, 615 F.3d at 1067.

Valladares-Real’s argument that our decision in *United States v. Rojas-Millan*, 234 F.3d 464 (9th Cir. 2000), compels a different result is unavailing.

AFFIRMED.