

DEC 17 2014

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NOT FOR PUBLICATION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.

RUBI ROXANA MARTINEZ-SOTO,

Defendant - Appellant.

No. 13-10633

D.C. No. 4:13-cr-00482-CKJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Submitted December 9, 2014**

Before: WALLACE, LEAVY, and BYBEE, Circuit Judges.

Rubi Roxana Martinez-Soto challenges the 48-month, below-Guidelines sentence imposed by the district court following her guilty-plea conviction for possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii), and importation of methamphetamine, in violation of

* 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).

21 U.S.C. §§ 952(a), 960(a)(1) and 960(b)(1)(H). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Martinez-Soto claims that the district court applied the wrong legal standard to her request for a minor role reduction under U.S.S.G. § 3B1.2(b). Our review is de novo. *See United States v. Hurtado*, 760 F.3d 1065, 1068 (9th Cir. 2014). The district court properly compared Martinez-Soto's culpability to that of the average participants in the overall drug trafficking scheme in which she was involved. *See id.* at 1068-69.

Moreover, the district court did not clearly err in finding that Martinez-Soto's role in the drug trafficking scheme was not minor, given that she was paid by the traffickers to import a substantial quantity of pure methamphetamine into this country, and had also worked as a drug courier for them two days before her arrest. *See United States v. Rodriguez-Castro*, 641 F.3d 1189, 1192-93 (9th Cir. 2011).

AFFIRMED.