

MAR 17 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT ENGLISH TRENT,

Defendant - Appellant.

No. 13-50608

D.C. No. 3:13-cr-02433-LAB-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted November 12, 2014**

Before: HUG, FARRIS, and CANBY, Circuit Judges.

Robert English Trent appeals from the district court's judgment and challenges the 40-month sentence imposed following his guilty-plea conviction for importation of cocaine, 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 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).

Trent contends that the district court refused to apply the minor role analysis required by the Sentencing Guidelines, the Sentencing Commission, and the law of this Court. In support of these contentions, he claims that the district court denied the minor role adjustment because it took the position that those who drive are not entitled to minor role adjustments, opined that couriers are not lower level offenders, and found the average courier to be an average participant. These claims are belied by the record.

Trent also contends that the district court improperly refused to compare the defendant to other participants in the offense. The record reflects that the district court applied the correct legal standard, relying on the specific facts of the case and determining whether Trent was substantially less culpable than the average participant. *See United States v. Hurtado*, 760 F.3d 1065, 1068-69 (9th Cir. 2014); *United States v. Rodriguez-Castro*, 641 F.3d 1189, 1193 (9th Cir. 2011); *United States v. Rosas*, 615 F.3d 1058, 1068 (9th Cir. 2010); *United States v. Cantrell*, 433 F.3d 1269, 1283 (9th Cir. 2006).

We also reject Trent's contention that, even if the district court correctly interpreted the Sentencing Guidelines, it clearly erred in denying the minor role adjustment. The record supports the district court's determination that Trent failed to carry his burden of proving that he was entitled to the minor role adjustment.

See Hurtado, 760 F.3d at 1069; *Rodriguez-Castro*, 641 F.3d at 1193; *Cantrell*, 433 F.3d at 1282-83.

AFFIRMED.