

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 18 2015

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICARDO FERNANDEZ,

Defendant - Appellant.

No. 14-50139

D.C. No. 3:13-cr-02247-BEN

MEMORANDUM*

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

Submitted March 10, 2015**

Before: FARRIS, WARDLAW, and PAEZ, Circuit Judges.

Ricardo Fernandez appeals from the district court's judgment and challenges the 96-month sentence imposed following his guilty-plea conviction for importation of heroin, cocaine, and methamphetamine, 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).

Fernandez challenges the district court's denial of a minor-role reduction under U.S.S.G. § 3B1.2, claiming that the district court incorrectly interpreted and applied the Guideline in denying the reduction. We review the district court's interpretation of the Guidelines de novo, its application of the Guidelines to the facts of the case for abuse of discretion, and its finding that a defendant is not a minor participant for clear error. *See United States v. Rodriguez-Castro*, 641 F.3d 1189, 1192 (9th Cir. 2011). The record reflects that the district court understood the legal standard, applied it correctly, and properly considered the totality of the circumstances, when it denied the adjustment. *See United States v. Hurtado*, 760 F.3d 1065, 1068-69 (9th Cir. 2014). Moreover, because Fernandez was the registered owner and sole occupant of a vehicle in which a substantial amount of drugs was discovered, and admitted that he expected to be paid \$1,500 for smuggling the drugs, the district court did not clearly err in holding that he was not a minor participant. *See id.*

AFFIRMED.