

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 22 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-50051

Plaintiff-Appellee,

D.C. No. 3:14-cr-02804-LAB

v.

MEMORANDUM*

ISMELDA SANCHEZ,

Defendant-Appellant.

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

Submitted December 18, 2017**

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

Ismelda Sanchez appeals from the district court's judgment and challenges the 68-month sentence imposed upon remand following her guilty-plea conviction for importation of heroin 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 Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Sanchez contends that the district court erred by denying her request for a minor role reduction under U.S.S.G. § 3B1.2. We review the district court's interpretation of the Guidelines de novo, and its application of the Guidelines to the facts of the case for abuse of discretion. *See United States v. Gasca-Ruiz*, 852 F.3d 1167, 1170 (9th Cir. 2017) (en banc).

Sanchez argues that the district court failed to compare her to two of her co-participants in the offense, and incorrectly concluded that she was not entitled to a minor role adjustment under the amended Guideline. The record reflects that the court compared Sanchez to all of the co-participants she identified, and found that Sanchez was not “substantially less culpable than the average participant.” U.S.S.G. § 3B1.2 cmt. n.3(A). In light of the totality of the circumstances, including Sanchez's prior drug smuggling activity, the district court did not abuse its discretion in denying the reduction. *See* U.S.S.G. § 3B1.2 cmt. n.3(C); *Gasca-Ruiz*, 852 F.3d at 1170.

AFFIRMED.