

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 22 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 22-10019

Plaintiff-Appellee,

D.C. No. 1:16-cr-00744-DKW-3

v.

FAANIMO PAOPAO, AKA Neem,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Hawaii
Derrick K. Watson, District Judge, Presiding

Submitted November 15, 2022**

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Faanimo Paopao appeals from the district court's judgment and challenges the 180-month sentence imposed following her guilty-plea conviction for several offenses related to the distribution of methamphetamine. 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).

Paopao contends that the district court relied on erroneous findings of fact when it imposed a 2-point enhancement to her offense level under U.S.S.G. § 3B1.1(c). The record does not support her contention. In light of the evidence adduced at the evidentiary hearing, the court's findings that Paopao served as a local manager for the drug conspiracy, directed the efforts of a codefendant, and developed a local market for the conspiracy's drugs were not clearly erroneous. *See United States v. Christensen*, 828 F.3d 763, 779 (9th Cir. 2015) (discussing clear error review of factual findings). Moreover, the district court's application of the aggravating role enhancement to Paopao was not an abuse of discretion. *See United States v. Gasca-Ruiz*, 852 F.3d 1167, 1170 (9th Cir. 2017) (en banc) (stating standard of review for the district court's application of Guidelines to the facts).

Paopao also argues that the court did not adequately consider the need to avoid unwarranted sentencing disparities with her codefendants. However, the court expressly acknowledged 18 U.S.C. § 3553(a)(6), and reasonably concluded that, although it had imposed 170-month sentences on some of Paopao's codefendants, a 180-month sentence was warranted because Paopao was uniquely situated given her poor performance on pretrial release. In light of the totality of the circumstances, the district court did not abuse its discretion in imposing the below-Guidelines sentence. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

AFFIRMED.