

MAR 10 2008

MOLLY DWYER, ACTING 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NOT FOR PUBLICATION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.

EVANGELINA MONARRES,

Defendant - Appellant.

No. 07-10093

D.C. No. CR-06-00549-JMR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John M. Roll, District Judge, Presiding

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Evangelina Monarres appeals from the 121-month sentence imposed following her guilty-plea conviction for multiple counts of possession with intent to distribute and importation of methamphetamine, cocaine, and heroin. We have

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

jurisdiction pursuant to 28 U.S.C. § 1291. We affirm, but remand for amendment of the judgment.

Monarres contends that the district court erred by failing to apply a downward adjustment for being a minor participant pursuant to U.S.S.G. § 3B1.2. This contention fails because the record demonstrates that Monarres knowingly imported approximately three million dollars worth of illegal narcotics with the expectation of receiving an economic benefit. *See United States v. Hursh*, 217 F.3d 761, 770 (9th Cir. 2000).

Monarres also contends the district court should have held an evidentiary hearing. The district court did not plainly err in not holding an evidentiary hearing, because the district court was entitled to rely on undisputed statements in the presentence report at sentencing. *See United States v. Ameline*, 409 F.3d 1073, 1085 (9th Cir. 2005) (en banc).

In its oral decision, the district court sentenced Monarres to a term of imprisonment of 121 months; however, the judgment and commitment order states that Monarres was sentenced to 120 months imprisonment. We remand for the district court to make the written judgment consistent with the oral pronouncement. *See United States v. Hicks*, 997 F.2d 594, 597 (9th Cir. 1993).

AFFIRMED; REMANDED.