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U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| UNITED STATES OF AMERICA,<br><br>Plaintiff - Appellee,<br><br>v.<br><br>MIGUEL ANGEL VALDEZ-VILLEGAS,<br><br>Defendant - Appellant. | No. 08-10137<br><br>D.C. No. 4:06-CR-02020-RCC<br><br>MEMORANDUM* |

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

Submitted March 18, 2009**

Before: LEAVY, HAWKINS and TASHIMA, Circuit Judges.

Miguel Angel Valdez-Villegas appeals from the 70-month sentence imposed following his guilty-plea conviction for importation of approximately 14.4

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* 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).

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kilograms of cocaine, in violation of 21 U.S.C. §§ 952(a) and 960(a)(1), (b)(1)(B)(ii), and possession with intent to distribute approximately 14.4 kilograms of cocaine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(ii)(II). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Valdez-Villegas contends that the district court erred by denying him a minor role adjustment under U.S.S.G. § 3B1.2(b) because it failed to consider his role relative to others involved in the overall criminal scheme. Because the evidence does not show that the appellant was "substantially less culpable than the average participant," the district court did not commit clear error by denying a minor role adjustment. *See* U.S.S.G. § 3B1.2, cmt. n.3 (2004); *see also United States v. Davis*, 36 F.3d 1424, 1436-37 (9th Cir. 1994). Furthermore, there is no evidence in the record that the district court failed to consider the role of other participants in the criminal scheme. *See United States v. Rojas-Millan*, 234 F.3d 464, 473-74 (9th Cir. 2000). Finally, we conclude that the sentence is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

**AFFIRMED.**