

MAR 27 2009

MOLLY C. DWYER, 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NOT FOR PUBLICATION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.

TANIA OFELIA HERNANDEZ-LOPEZ,

Defendant - Appellant.

No. 08-50014

D.C. No. CR-07-02122-LAB

MEMORANDUM*

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

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Tania Ofelia Hernandez-Lopez appeals from the 57-month sentence imposed following her guilty-plea conviction for importation of cocaine, in violation of

* 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).

21 U.S.C. §§ 952 and 960. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Hernandez-Lopez contends that the district court erred by denying her request for a minor role adjustment, pursuant to U.S.S.G. § 3B1.2(b). We conclude that the district court applied the correct legal standard and did not clearly err by denying the adjustment. *See United States v. Davis*, 36 F.3d 1424, 1436-37 (9th Cir. 1994); *United States v. Lui*, 941 F.2d 844, 849 (9th Cir. 1991).

Hernandez-Lopez also contends that her sentence is unreasonable because the district court: (1) applied a reasonableness standard rather than the parsimony principle; (2) failed to provide an adequate explanation for the sentence imposed; and (3) based the sentence on clearly erroneous facts. We conclude that the district court did not procedurally err and that Hernandez-Lopez's sentence is substantively reasonable. *See Rita v. United States*, 127 S. Ct. 2456, 2468-69 (2007); *see also United States v. Carty*, 520 F.3d 984, 994-96 (9th Cir. 2008) (en banc).

AFFIRMED.