

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 12, 2010

Charles R. Fulbruge III
Clerk

No. 09-40186

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE GONZALEZ-GARZA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:07-CR-541-1

Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Jose Gonzalez-Garza raises arguments that are foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308-09 (5th Cir. 2009), which reaffirmed the holding in *United States v. Gamez-Gonzalez*, 319 F.3d 695, 700 (5th Cir. 2003), that knowledge of drug type and quantity is not a material element of the offense. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.