

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-40835  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIO HUMBERTO CAZARES-RAMIREZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. M-01-CR-132-1  
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April 22, 2002

Before DeMOSS, PARKER, and DENNIS, Circuit Judges.

PER CURIAM:\*

Mario Humberto Cazares-Ramirez appeals from his conviction of importing approximately 47 kilograms of cocaine. Cazares contends, for the first time on appeal, that there was an inadequate factual basis for his guilty plea pursuant to FED. R. CRIM. P. 11(f) because the factual basis did not establish that he knew the substance he imported was cocaine or how much cocaine he carried. He argues that *Apprendi v. New Jersey*, 530 U.S. 466 (2000), requires the factual basis to establish that a drug-importation defendant knew the type and quantity of the drug involved in his offense.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The factual basis for a guilty plea in a drug-importation case need not establish that the defendant knew the precise quantity or type of the drug he imported. *United States v. Valencia-Gonzales*, 172 F.3d 344, 345-46 (5th Cir. 1999). *Apprendi* has not affected this court's pre-*Apprendi* jurisprudence on that issue. See *United States v. Enriquez*, No. 00-51086, slip op. at 2 (5th Cir. Oct. 4, 2001) (unpublished; copy attached); see also *United States v. Carrera*, 259 F.3d 818, 830 (7th Cir. 2001); *United States v. Sheppard*, 219 F.3d 766, 768 n.1 (8th Cir. 2000). Cazares cannot demonstrate error, plain or otherwise. See *United States v. Vonn*, \_\_\_U.S.\_\_(U.S. Mar. 4, 2002), 2002 WL 331733, \*5.

Cazares contends, again for the first time on appeal, that the federal drug-importation statutes are facially unconstitutional pursuant to *Apprendi*. He concedes that his contention is foreclosed by the jurisprudence of this court, but he seeks to preserve the issue for Supreme Court review. *Apprendi* did not render the federal drug statutes unconstitutional. *United States v. Slaughter*, 238 F.3d 580, 581 (5th Cir.), cert. denied, 532 U.S. 1045 (2001). Cazares cannot demonstrate error, plain or otherwise. See *United States v. Calverley*, 37 F.3d 160, 162-64 (5th Cir. 1994)(en banc).

AFFIRMED.