

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41018
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICENTE ALEMAN-ALVAREZ,

Defendant-

Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-01-CR-459-ALL

June 7, 2002

Before JOLLY, STEWART and PARKER, Circuit Judges.

PER CURIAM:*

Vicente Aleman-Alvarez (Aleman) has appealed his guilty-plea conviction of conspiracy to possess more than five kilograms of cocaine with intent to distribute it. We AFFIRM.

Aleman contends that he is entitled to reversal because there was an inadequate factual basis for his plea. See FED. R. CRIM. P. 11(f). He relies on his assertion that he did not know that he was transporting more than 30 kilograms of cocaine, but thought that only a small quantity of marijuana

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

was involved. Aleman asserts that Apprendi v. New Jersey, 530 U.S. 466 (2000), has abrogated United States v. Valencia-Gonzales, 172 F.3d 344 (5th Cir. 1999), which states that the relevant statutes mandate “a strict liability punishment based on which controlled substance, and how much of it, is involved in the offense.”

Aleman’s contention is refuted by the transcript of his arraignment hearing. In that proceeding, he admitted under oath that he had agreed to transport the cocaine from Coahuila, Mexico, to San Antonio, Texas, for remuneration. Thus, there was an ample factual basis even if it is assumed that now a defendant in a drug-trafficking case must know what drug and how much of it was involved. See United States v. Peters, 283 F.3d 300, 307 (5th Cir.) (elements of drug-conspiracy offense), petition for cert. filed, (U.S. Apr. 4, 2002) (No. 01-9578).

AFFIRMED.