

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

United States Court of Appeals  
Fifth Circuit

**FILED**

June 21, 2011

Lyle W. Cayce  
Clerk

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No. 10-40756  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EUSEBIO VELA,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:09-CR-949-1

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Before JONES, Chief Judge, and STEWART and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Eusebio Vela presents arguments that he concedes are foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308-09 (5th Cir. 2009), *cert. denied*, 130 S. Ct. 1920 (2010), 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 an element of the offense under 21 U.S.C. § 841. The appellant's motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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