

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

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No. 14-40634  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

May 14, 2015

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

CARLOS MERCADO, True Name Carlos Alonso Mercado Robles,

Defendant–Appellant.

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Appeals from the United States District Court  
for the Southern District of Texas  
USDC No. 5:13-CR-747

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Before SMITH, WIENER, and ELROD, Circuit Judges.

PER CURIAM:\*

Carlos Mercado raises an argument on appeal that he concedes is foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308–09 (5th Cir. 2009), which held that knowledge of drug type and quantity is not an element of the offense under 21 U.S.C. § 841. Mercado also requests a remand for the limited

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 14-40634

purpose of correcting the judgment under Federal Rule of Criminal Procedure 36 to reflect that he was acquitted on count one. The government joins in requesting remand.

Accordingly, the government's motion for summary affirmance is GRANTED, and the judgment is AFFIRMED and REMANDED with instruction to correct the judgment pursuant to Rule 36 to reflect that Mercado was found not guilty on count one. The government's motion for an extension of time to file its brief is DENIED as unnecessary.