

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

United States Court of Appeals  
Fifth Circuit

**FILED**

August 18, 2015

Lyle W. Cayce  
Clerk

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No. 14-41237  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ORLANDO GIOVANNI HERNANDEZ,

Defendant-Appellant

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Appeals from the United States District Court  
for the Southern District of Texas  
USDC No. 1:13-CR-740-4

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Before JOLLY, GRAVES, and COSTA, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Orlando Giovanni Hernandez raises an argument that 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 21 U.S.C. § 841 offense. The 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

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The record, however, reflects a clerical error in the written judgment. The written judgment reflects Hernandez was convicted of conspiracy to possess with intent to distribute cocaine under 21 U.S.C. §§ 84(a)(1), 841(b)(1)(A), and 846, rather than under §§ 841(a)(1), 841(b)(1)(A), and 846. Accordingly, we remand for correction of the written judgment in accordance with Federal Rule of Criminal Procedure 36. *See United States v. Johnson*, 588 F.2d 961, 964 (5th Cir. 1979).

AFFIRMED; MOTION GRANTED; LIMITED REMAND FOR CORRECTION OF JUDGMENT.