

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

No. 17-40336
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 29, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JULIO ADOLIO RIVERA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:15-CR-14-1

Before HIGGINBOTHAM, JONES, SMITH, Circuit Judges.

PER CURIAM:*

Julio Adolio Rivera appeals his guilty plea conviction for possession with intent to distribute more than 500 grams of a mixture or substance containing a detectable amount of cocaine in violation of 18 U.S.C. § 2; 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(ii). Rivera argues that the factual basis was insufficient to support his guilty plea conviction because the Government failed to meet its

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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obligation to prove that he knew the type and quantity of drug involved in his offense.

As Rivera concedes, his argument is foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308-09 (5th Cir. 2009), which held that *Flores-Figueroa v. United States*, 556 U.S. 646 (2009), did not overturn *United States v. Gamez-Gonzalez*, 319 F.3d 695 (5th Cir. 2003), and that the Government is not required to prove knowledge of drug type and quantity as an element of a drug offense.

Accordingly, Rivera's motion for summary disposition is GRANTED, and the judgment is AFFIRMED.