

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

United States Court of Appeals
Fifth Circuit

FILED

October 10, 2018

Lyle W. Cayce
Clerk

No. 18-40324
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALBERTO JAIR PROA-DOMINGUEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:17-CR-609-1

Before KING, SOUTHWICK, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Alberto Jair Proa-Dominguez appeals his guilty plea convictions and sentences for: (1) conspiracy to possess with intent to distribute 50 grams or more of methamphetamine or 500 grams or more of a mixture or substance containing methamphetamine, in violation of 21 U.S.C. § 846 and 21 U.S.C. § 841(a)(1), (b)(1)(A); and (2) possession with intent to distribute 50 grams or more of methamphetamine or 500 grams or more of a mixture or substance

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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containing methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A). Proa-Dominguez argues that the factual basis for his guilty plea was inadequate because it did not establish that he knew the type and quantity of the controlled substance involved in his offenses.

However, Proa-Dominguez has filed an unopposed motion for summary disposition correctly conceding that this issue is foreclosed by *United States v. Betancourt*, 586 F.3d 303 (5th Cir. 2009), and explaining that he has raised the issue only to preserve it for possible further review. Accordingly, because summary disposition is appropriate, *see Groendyke Transport, Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Proa-Dominguez's motion is GRANTED. The district court's judgment is AFFIRMED.