

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

No. 18-40752
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 8, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE GARCIA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:18-CR-143-1

Before HIGGINBOTHAM, ELROD, and DUNCAN, Circuit Judges.

PER CURIAM:*

Jose Garcia pleaded guilty to a single count of possession with intent to distribute more than 500 grams of cocaine. On appeal, he contends that his conviction was not supported by an adequate factual basis because the Government did not meet its obligation to prove that he had knowledge of the type and quantity of the controlled substance involved in his offense.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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As Garcia concedes, his sole appellate argument is foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308-09 (5th Cir. 2009), which determined 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 the drug type and quantity as an element of a 21 U.S.C. § 841 drug trafficking offense. The Government thus did not have to prove that Garcia knew the type and quantity of the controlled substance involved in his offense.

Accordingly, Garcia's motion for summary disposition is GRANTED, and the district court's judgment is AFFIRMED.