

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-50441  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEOPOLDO PACHECO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-98-CR-1140-1-H  
- - - - -

April 14, 2000

Before WIENER, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:\*

Leopoldo Pacheco appeals from his sentence for conspiracy to import an unspecified quantity of marijuana into the United States from Mexico, importing an unspecified quantity of marijuana into the United States from Mexico, conspiracy to possess with intent to distribute an unspecified amount of marijuana, and possession with intent to distribute an unspecified quantity of marijuana. Relying upon Jones v. United States, 526 U.S. 227, 119 S. Ct. 1215 (1999), Pacheco argues that his sentence must be vacated because it was enhanced on the basis

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

of the quantities of marijuana involved in each offense, which were not alleged in the indictment or submitted to a jury.

Pacheco did not raise this claim before the district court. Accordingly, we review for plain error only. Pacheco's challenge is foreclosed by United States v. Rios-Quintero, 204 F.3d 214 (5th Cir. 2000), which held that Jones does not support a determination of plain error. Accordingly, the judgment of the district court is AFFIRMED.