

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

No. 17-40270
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 25, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JORGE ROCHA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:16-CR-132-1

Before JONES, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:*

Following a jury trial, Jorge Rocha was convicted of and sentenced for assaulting a federal officer by contact and infliction of bodily injury, in violation of 18 U.S.C. § 111(a)(1) and (b), and possession with intent to distribute 50 grams and more of methamphetamine and 500 grams and more of a mixture and substance containing a detectable amount of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A) and 18 U.S.C. § 2. Rocha appeals

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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his methamphetamine possession conviction on two related grounds. He asserts that the Government failed to meet its obligation to prove that he had knowledge of the type and quantity of controlled substance involved in his offense. In the alternative, Rocha asserts that the jury instructions were deficient because they did not require that the jury find that he knew the type and quantity of controlled substance that he possessed.

As Rocha concedes, his arguments are 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 § 841 drug offense.

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