

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

United States Court of Appeals
Fifth Circuit

FILED

May 14, 2019

Lyle W. Cayce
Clerk

No. 18-40993
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MIGUEL OLIVERA-SANCHEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:17-CR-538-1

Before HIGGINBOTHAM, ELROD, and DUNCAN, Circuit Judges.

PER CURIAM:*

Miguel Olivera-Sanchez was convicted of one charge of possessing 4.5 kilograms of cocaine with intent to distribute and was sentenced to serve 97 months in prison and a four-year term of supervised release. Now, he argues that the evidence was insufficient to support his conviction because it did not establish that he knew the type and quantity of drugs he possessed and that the jury instructions were flawed because they did not require this finding. He

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 18-40993

concedes that these arguments are foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308-09 (5th Cir. 2009), and he has filed an unopposed motion for summary disposition based on *Betancourt*.

As Olivera-Sanchez acknowledges, *Betancourt* reiterated that a defendant's knowledge of the type and quantity of drugs is not an element of a § 841 offense. 586 F.3d at 308-09. This case thus forecloses his arguments concerning the necessity of the government's proving his knowledge of the type and quantity of drugs involved with his offense. *See id.* His motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.