

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

United States Court of Appeals
Fifth Circuit

FILED

February 18, 2013

Lyle W. Cayce
Clerk

No. 12-40832

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ROBERTO ZUNIGA-MARTINEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:12-CR-201-1

Before JONES, DENNIS, and HAYNES, Circuit Judges.

PER CURIAM:*

Jose Roberto Zuniga-Martinez pleaded guilty to Count Two of a four-count indictment, a charge of importing into the United States five kilograms or more of cocaine in violation of 21 U.S.C. §§ 952(a), 960(a)(1), and 960(b)(1)(B). He was sentenced within the guidelines sentencing range to 125 months of imprisonment. Represented by the Federal Public Defender, Zuniga-Martinez raises an argument, in order to preserve the issue for further review, that he correctly concedes is foreclosed by circuit precedent.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 12-40832

Knowledge of drug type and quantity is not an element of an offense under 21 U.S.C. § 841, *see United States v. Betancourt*, 586 F.3d 303 (5th Cir. 2009), nor is such knowledge an element of an offense under the related statutes of § 952(a) and § 960(a). *United States v. Restrepo-Granda*, 575 F.2d 524, 527 (5th Cir. 1978); *see United States v. Valencia-Gonzales*, 172 F.3d 344, 345-46 (5th Cir. 1999). Accordingly, the Government was not required to prove that Zuniga-Martinez knew the type or quantity of drugs involved. *See United States v. Puente-Vasquez*, 34 F. App'x 962, 962 (5th Cir. 2002) (§§ 841(a)(1), 952(a), 960(a)(1)).

The Appellant's motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.