

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

United States Court of Appeals  
Fifth Circuit

**FILED**

February 12, 2010

\_\_\_\_\_  
No. 09-40186  
Conference Calendar  
\_\_\_\_\_

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE GONZALEZ-GARZA,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:07-CR-541-1  
\_\_\_\_\_

Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Jose Gonzalez-Garza raises arguments that are foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308-09 (5th Cir. 2009), which reaffirmed the holding in *United States v. Gamez-Gonzalez*, 319 F.3d 695, 700 (5th Cir. 2003), that knowledge of drug type and quantity is not a material element of the offense. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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