

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

United States Court of Appeals  
Fifth Circuit

**FILED**

February 12, 2010

\_\_\_\_\_  
No. 09-40863  
Conference Calendar  
\_\_\_\_\_

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MAURO VARILLA-QUEVADO,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 1:09-CR-134-1  
\_\_\_\_\_

Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Mauro Varilla-Quevado presents arguments that he concedes are foreclosed by *United States v. Cepeda-Rios*, 530 F.3d 333, 335-36 (5th Cir. 2008), which held that even after *Lopez v. Gonzales*, 549 U.S. 47 (2006), a second state conviction for simple possession of a controlled substance qualifies as an aggravated felony that supports the imposition of an eight-level enhancement under United States Sentencing

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Guideline § 2L1.2(b)(1)(C). The appellant's unopposed motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.