

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

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No. 14-40428  
Conference Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

December 16, 2014

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ARNOLDO HERNANDEZ-GUTIERREZ,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:13-CR-1214-1

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Before KING, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Arnolando Hernandez-Gutierrez raises an argument that he concedes is foreclosed by *United States v. Betancourt*, 586 F.3d 303, 308-09 (5th Cir. 2009), which held that knowledge of drug type and quantity is not an element of the offense under 21 U.S.C. § 841. Knowledge of drug type and quantity also is not an element of the offense under the related statutes of 21 U.S.C. § 952 and § 960. *United States*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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*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). The unopposed motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.