

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

United States Court of Appeals
Fifth Circuit

FILED

July 20, 2015

Lyle W. Cayce
Clerk

No. 14-41285
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE EZEQUIEL MUNOZ-MUNOZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:14-CR-1107-1

Before REAVLEY, SMITH, and HAYNES, Circuit Judges.

PER CURIAM:*

Jose Ezequiel Munoz-Munoz appeals the sentence imposed on his conviction for being found unlawfully in the United States following a previous deportation. He argues that the district court plainly erred in assessing the drug trafficking enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(i) based on his 2011 federal convictions for conspiracy to distribute and possession with intent to distribute five kilograms or more of cocaine and possession with intent to

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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distribute 500 grams or more of cocaine. According to Munoz-Munoz, those offenses did not require proof of commercial activity and therefore extend more broadly than the generic definition of a drug trafficking offense.

As he concedes, his argument is reviewed under the plain error standard because it was not raised in the district court. *See United States v. Rodriguez-Escareno*, 700 F.3d 751, 753 (5th Cir. 2012). The drug trafficking enhancement under § 2L1.2(b)(1)(A)(i) is not rendered inapplicable merely because the prior conviction did not require proof of remuneration or commercial activity. *United States v. Martinez-Lugo*, 782 F.3d 198, 202-05 (5th Cir. 2015). Contrary to Munoz-Munoz's argument, the federal offenses of conspiracy to distribute a controlled substance and possession with intent to distribute a controlled substance qualify as drug trafficking offenses under § 2L1.2(b)(1)(A)(i). *Rodriguez-Escareno*, 700 F.3d at 754. Munoz-Munoz has not demonstrated error, much less plain error, in the district court's assessment of the § 2L1.2(b)(1)(A)(i) enhancement.

AFFIRMED.