

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

No. 16-40917
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 21, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

OCTAVIO LOPEZ-RODRIGUEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:15-CR-1204-1

Before JOLLY, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Octavio Lopez-Rodriguez raises an argument that 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 a 21 U.S.C. § 841 offense. Nor is knowledge of drug type and quantity an element of an offense under either 21 U.S.C. § 952(a) or 21 U.S.C. § 960(a). See *United States v. Valencia-Gonzales*, 172 F.3d 344,

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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345-46 (5th Cir. 1999); *United States v. Restrepo-Granda*, 575 F.2d 524, 527 (5th Cir. 1978). Accordingly, the motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.