

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States v. Nelly Cazares

No. 18-40296, United States Court of Appeals for the Fifth Circuit (October 25, 2018)

OPINION

PER CURIAM.

Case: 18-40296 Document: 00514698121 Page: 1 Date Filed: 10/25/2018 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT No. 18-40296 United States Court of Appeals Summary Calendar Fifth Circuit FILED October 25, 2018 UNITED STATES OF AMERICA, Lyle W. Cayce Clerk Plaintiff-Appellee v. NELLY BEATRIZ CAZARES, Defendant-Appellant Appeal from the United States District Court for the Southern District of Texas USDC No. 1:17-CR-563-1 Before HIGGINBOTHAM, ELROD, and DUNCAN, Circuit Judges.

PER CURIAM: * Nelly Beatriz Cazares pleaded guilty to a single count of possession with intent to distribute more than 100 kilograms of marijuana. Cazares contends that her conviction was not supported by an adequate factual basis because the Government did not meet its obligation to prove that she had knowledge of the type and quantity of drugs involved in her offense. * 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R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. Case: 18-40296 Document: 00514698121 Page: 2 Date Filed: 10/25/2018 No. 18-40296 As Cazares concedes, her sole appellate argument is foreclosed by United States v. Betancourt, 586 F.3d 303, 308-09 (5th Cir.

2009), which determined that Flores-Figueroa v. United States, 556 U.S. 646 (2009), did not overturn United States v. Gamez-Gonzalez, 319 F.3d 695 (5th Cir. 2003), and that the Government is not required to prove knowledge of the drug type and quantity as an element of a 21 U.S.C. § 841 drug trafficking offense.

The Government thus did not have to prove that Cazares was aware of the type and quantity of controlled substances involved in her offense. Therefore, Cazares's motion for summary disposition is GRANTED, and the district court's judgment is AFFIRMED. 2