

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-10657
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RONNIE GENE RANGLES,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:99-CR-82-1-G

February 13, 2001

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Ronnie Gene Randles appeals from his conviction of possession with intent to distribute cocaine base. Randles contends solely that 21 U.S.C. § 841 was rendered facially unconstitutional by *Apprendi v. New Jersey*, 120 S. Ct. 2348 (2000), because Congress intended for drug types and quantities to be sentencing factors, not elements of the drug offenses listed in § 841(a).

Randles raises his *Apprendi* contention for the first time on appeal. His contention therefore is reviewed under the plain-

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

error standard. *United States v. Calverley*, 37 F.3d 160, 162-64 (5th Cir. 1994)(en banc).

Apprendi did not render § 841 facially invalid. *United States v. Slaughter*, ___ F.3d ___ (5th Cir. Jan. 12, 2001), 2000 WL 1946670, *1. Randles therefore has shown no error, plain or otherwise.

APPEAL DISMISSED. 5TH CIR. R. 42.2.