

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20464
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LAZARO MORENO,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-95-CR-142-22

April 11, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Lazaro Moreno appeals from his sentence for conspiring to possess with intent to distribute 1,000 kilograms or more of marijuana. Moreno contends that his sentence violated *Apprendi v. New Jersey*, 530 U.S. 466 (2000), because his indictment did not allege a specific amount of marijuana or a range of amounts of marijuana. The Government contends that Moreno waived his *Apprendi* contention by waiving his right to appeal his sentence and that Moreno's *Apprendi* contention is unavailing on its merits.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Even without the waiver, Moreno's appeal has no merit. There was no *Apprendi* violation in the case. Moreno's indictment alleged that he had conspired to possess with intent to distribute 1,000 or more kilograms of marijuana; Moreno's offense carried a statutory penalty range of ten years' to life imprisonment. 21 U.S.C. §§ 841(b)(1)(A), 846. Moreno's sentence of life imprisonment was within that statutory range. See *United States v. Keith*, 230 F.3d 784, 787 (5th Cir. 2000), cert. denied, 531 U.S. 1182 (2001).

AFFIRMED.