

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41263
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MACRINO ESPINOZA-VASQUEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-00-CR-313-2

June 19, 2002

Before HIGGINBOTHAM, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Macrino Espinoza-Vasquez appeals his guilty-plea conviction and sentence for possession of cocaine with intent to distribute. Espinoza contends that 21 U.S.C. § 841 is unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). As Espinoza concedes, his argument is foreclosed by circuit precedent, but he raises the issue to preserve it for Supreme Court review. See United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), cert. denied, 532 U.S. 1045 (2001). The judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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