

April 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-10383
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAMON JAQUEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:01-CR-176-1-Y

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Ramon Jaquez appeals his guilty-plea conviction and sentence for possession with intent to distribute more than five kilograms of cocaine. Jaquez argues, for the first time on appeal, that 21 U.S.C. § 841 is unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). He concedes that this argument is foreclosed by United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), but he raises it to preserve it for Supreme Court review.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Also for the first time on appeal, Jaquez argues that the factual basis is insufficient to support his guilty plea because it does not establish that he knew the type and quantity of controlled substance he possessed. This argument is foreclosed by this court's recent decision in United States v. Gamez-Gonzalez, 319 F.3d 695, 700 (5th Cir. 2003).

AFFIRMED.