

April 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-20706
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO EFRAIN DIEGUEZ-GARCIA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-542-1

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Antonio Efrain Dieguez-Garcia has appealed his conviction for possession with intent to distribute 1 kilogram or more of heroin and importation of heroin. Dieguez' sole issue is whether 21 U.S.C. §§ 841(a)&(b), 952, and 960(a)&(b) are unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). Dieguez concedes that his argument is foreclosed by this court's precedent; he raises the issue only to preserve it for further

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

review. See United States v. Slaughter, 238 F.3d 580, 582
(2000). The judgment is AFFIRMED.