

April 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-20874
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODOLFO ALFREDO NAJERA-GUERRA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-885-1

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Rodolfo Alfredo Najera-Guerra appeals his conviction following his guilty plea to importing more than 100 grams of heroin in violation of 21 U.S.C. §§ 952(a) and 960(a)(1) and (b)(2)(A). Najera argues 21 U.S.C. §§ 952 and 960 are facially unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). He acknowledges that his argument is foreclosed by this court's decision in United States v. Slaughter, 238 F.3d 580, 582

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(5th Cir. 2000), but raises the issue only to preserve it for review in the Supreme Court.

Slaughter applies by analogy to the instant case because the statutes at issue are similar in structure and content. One panel of this court may not overrule another. See United States v. Fowler, 216 F.3d 459, 461 (5th Cir. 2000).

The judgment of the district court is AFFIRMED.