

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40761
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODOLFO RIASCOS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-01-CR-26-ALL

December 12, 2002

Before JOLLY, JONES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Rodolfo Riascos appeals his conviction for possession of more than five kilograms of cocaine with intent to distribute in violation of 21 U.S.C. § 841. Riascos argues that 21 U.S.C. § 841 is unconstitutional in view of Apprendi v. New Jersey, 530 U.S. 466 (2000). He concedes that this argument is foreclosed by this court's precedent. United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), cert. denied, 532 U.S. 1045 (2001). This court is bound by its precedent absent an intervening

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Supreme Court decision or a subsequent en banc decision. See
United States v. Short, 181 F.3d 620, 624 (5th Cir. 1999).

AFFIRMED.