

April 24, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-40784  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODRIGO SEGOVIA-VELAZQUEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-01-CR-1346-1  
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Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Rodrigo Segovia-Velazquez appeals his guilty-plea conviction and sentence for possession with intent to distribute more than five kilograms of cocaine. For the first time on appeal, Segovia-Velazquez 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. He concedes that this argument is foreclosed by this court's recent decision in United States v. Gamez-Gonzalez, 319 F.3d 695,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

700 (5th Cir. 2003), but he raises it to preserve it for Supreme Court review.

Segovia-Velazquez argues, also 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.

AFFIRMED.