

June 25, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-50758
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARTURO LAREDO-MOLINAR,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-01-CR-2107-5-DB

Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Arturo Laredo-Molinar pleaded guilty of importing into the United States more than 100 kilograms of marijuana in violation of 21 U.S.C. § 952(a). He appeals the enhanced sentence imposed in his case under 21 U.S.C. §§ 960(a)(1), and (b)(2)(G). Laredo-Molinar argues that 21 U.S.C. § 960(b)(2)(G) is facially unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). Laredo-Molinar raises his argument only to preserve it for Supreme Court review. As he acknowledges, his argument

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

is foreclosed by this court's decision in United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), which held that Apprendi did not render analogous statutes under the Controlled Substances Act facially unconstitutional.

This court is bound by its precedent absent an intervening Supreme Court decision or a subsequent en banc decision.

See United States v. Short, 181 F.3d 620, 624 (5th Cir. 1999);

United States v. Mathena, 23 F.3d 87, 91 (5th Cir. 1994).

Laredo-Molinar's argument is indeed foreclosed. Because Laredo-Molinar's argument is foreclosed, the Government has filed a motion asking this court to summarily affirm the district court's judgment. That motion is GRANTED. The judgment of the district court is AFFIRMED.

AFFIRMED; MOTION GRANTED.