

October 22, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-40019  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ANGEL GUAJARDO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-02-CR-252-ALL  
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Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:\*

Jose Angel Guajardo appeals from his guilty-plea conviction for possession with intent to distribute more than 500 grams of cocaine. Guajardo contends for the first time on appeal that 21 U.S.C. § 841 is unconstitutional in view of Apprendi v. New Jersey, 530 U.S. 466 (2000). Guajardo acknowledges that his argument is foreclosed by United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), but he seeks to preserve his argument for further review. The judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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