

August 17, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-41686
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDUARDO EFRAIN CHAVEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:04-CR-1215-ALL

Before BENAVIDES, CLEMENT, and PRADO, Circuit Judges.

PER CURIAM:*

Eduardo Efrain Chavez appeals his guilty-plea conviction and sentence for possession of more than 1,000 kilograms of marijuana with intent to distribute, in violation of 21 U.S.C. § 841(a) and (b)(1)(A). He argues that the sentencing provisions of 21 U.S.C. § 841(b) are unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466, 490 (2000). Chavez concedes that his argument is foreclosed by our opinion in United States v. Slaughter, 238 F.3d 580, 581-82 (5th Cir. 2000). See United States v. Valenzuela-Quevedo, 407 F.3d 728, 731 (5th Cir. 2005), petition for cert.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

filed (July 25, 2005)(No. 05-5556). He raises the issue only to preserve it for further review. Accordingly, Chavez's argument is foreclosed, and the judgment of the district court is

AFFIRMED.