

April 11, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40469
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN JOSE ROMERO-VILLARREAL,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:04-CR-756-ALL

Before JONES, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Juan Jose Romero-Villarreal (Romero) appeals his guilty-plea conviction and sentence for possession with the intent to distribute more than 100 kilograms of marijuana, in violation of 21 U.S.C. § 841(a). He argues that the district court erred by ordering him to cooperate in the collection of a DNA sample as a condition of supervised release. Romero's claim is not ripe for review on direct appeal. See United States v. Riascos-Cuenu, 428 F.3d 1100, 1101-02 (5th Cir. 2005), petition for cert. filed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(Jan. 9, 2006) (No. 05-8662). The claim is dismissed. See id. at 1102.

As Romero correctly notes, his additional argument, made for the first time on appeal, that the district court lacked jurisdiction to convict and sentence him because 21 U.S.C. § 841 is unconstitutional under Apprendi v. New Jersey, 530 U.S. 466 (2000), is foreclosed by United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000).

JUDGMENT AFFIRMED; APPEAL DISMISSED IN PART.