

April 12, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-40656  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDUARDO ALFONSO TORO-MUNOZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:04-CR-2043-ALL  
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Before JONES, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:\*

Eduardo Alfonso Toro-Munoz (Toro) entered a guilty plea to one count of possession of 1.2 kilograms of methamphetamine with intent to distribute and was sentenced to 96 months of imprisonment and five years of supervised release. Toro contends that 21 U.S.C. § 841 is unconstitutional in light of the Supreme Court's decision in Apprendi v. New Jersey, 530 U.S. 466, 488 (2000). Toro acknowledges that his argument is foreclosed by this court's precedent, United States v. Slaughter, 238 F.3d 580,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

582 (5th Cir. 2000), but he seeks to preserve the issue for Supreme Court review.

Toro's argument is foreclosed. Slaughter, 238 F.3d at 582; see United States v. Fort, 248 F.3d 475, 482-83 (5th Cir. 2001). Accordingly, the district court's judgment is AFFIRMED.