

February 23, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-40830  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEODEGARIO GUZMAN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:04-CR-154-1  
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Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Leodegario Guzman appeals his conviction and sentence following his guilty plea to importation of more than one kilogram of heroin into the United States. Guzman correctly notes that his 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).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Guzman also argues for the first time on appeal that the district court abused its discretion when it imposed a condition of supervised release that requires him to cooperate in the collection of his DNA. Guzman's claim is not ripe for review. See United States v. Riascos-Cuenu, 428 F.3d 1100, 1101-02 (5th Cir. 2005), petition for cert. filed (Jan. 9, 2006) (No. 05-8662). Therefore, this court lacks jurisdiction to review this claim.

AFFIRMED IN PART; DISMISSED IN PART.