

February 24, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40870
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SEBASTIAN FLORES-SERRANO,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:04-CR-621-1

Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Sebastian Flores-Serrano appeals his guilty plea conviction and sentence for possession with intent to distribute 5.14 kilograms of cocaine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A). He contends that the provisions of § 841(a) and (b) are facially unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). As Flores-Serrano concedes, his argument is foreclosed by circuit precedent. See United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000). He raises the issue only to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

preserve it for Supreme Court review. Accordingly, the district court's judgment is AFFIRMED.