

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20524
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BILLY RAY ISHUP,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CR-584-1

October 30, 2002

Before DeMOSS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Billy Ray Ishup appeals his conviction for distribution of cocaine base in violation of 21 U.S.C. § 841, which he contends is unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). Ishup concedes that this argument is foreclosed. See United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), cert. denied., 532 U.S. 1045 (2001). He seeks to preserve

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

his argument for Supreme Court review. The judgment of the district court is AFFIRMED.