

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 01-41241  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARLOS JESUS BARRIENTOS-VASQUEZ,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-01-CR-195-1  
-----

August 21, 2002

Before HIGGINBOTHAM, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:\*

Carlos Jesus Barrientos-Vasquez appeals his guilty-plea conviction and sentence for possessing with the intent to distribute approximately 49 kilograms of marijuana. Barrientos contends that 21 U.S.C. § 841 is facially unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000).

As Barrientos concedes, his argument is foreclosed by this court's decision in United States v. Slaughter, 238 F.3d 580, 582

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(5th Cir. 2000), cert. denied., 532 U.S. 1045 (2001). He raises the issue only to preserve it for Supreme Court review. The judgment of the district court is AFFIRMED.