

FILED

June 23, 2004

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 03-30968
Conference Calendar

UNITED STATES of AMERICA,

Plaintiff-Appellee,

versus

STEPHEN LEE VAZQUEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 03-CR-50023-1

Before BARKSDALE, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Stephen Lee Vazquez appeals the sentence imposed after he pleaded guilty to conspiring to possess with intent to distribute 50 grams or more of methamphetamine. Relying on Apprendi v New Jersey, 530 U.S. 466 (2000), he contends that his sentence exceeded the maximum sentence provided by the sentencing guidelines for the type of methamphetamine charged in his indictment. As Vazquez concedes, Apprendi does not apply to drug quantities that increase only the statutory minimum sentence or

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the relevant conduct under the sentencing guidelines. See United States v. Keith, 230 F.3d 784, 787 (5th Cir. 2000). Vazquez asserts the claim in order to preserve it for possible Supreme Court review. Vazquez's claim is foreclosed, and the judgment of the district court is

AFFIRMED.