

August 20, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40097
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAVIER OLIVA-LOPEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-02-CR-859-ALL

Before JONES, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Javier Oliva-Lopez (Oliva) appeals his guilty-plea conviction and sentence for possessing with the intent to distribute less than 50 kilograms of marijuana. Oliva contends that the sentencing scheme of 21 U.S.C. § 841 is facially unconstitutional in the light of Apprendi v. New Jersey, 530 U.S. 466, 490 (2000).

As Oliva 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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). He raises the issue only to preserve it for possible Supreme Court review. The judgment of the district court is AFFIRMED.