

March 17, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-41244  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

NOELIA CAMPOS MADRIGAL,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-03-CR-109-1  
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Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

Noelia Campos Madrigal appeals the sentence imposed following her guilty-plea conviction of possessing with the intent to distribute more than 500 grams of cocaine.

Madrigal complains that the district court did not apply the safety-valve provisions in U.S.S.G. §§ 5C1.2 and 2D1.1(b)(6) and 18 U.S.C. § 3553(f) in order to sentence her without regard for the statutory minimum sentence set forth in 21 U.S.C.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 841(b)(1)(A). She challenges the district court's finding that she did not meet the criteria of 18 U.S.C. § 3553(f)(5) because she failed truthfully to provide the government with all information and evidence she had concerning her offense. Madrigal has not shown that the district court's finding was clearly erroneous. See United States v. Miller, 179 F.3d 961, 964-65 (5th Cir. 1999).

Madrigal also challenges the constitutionality of 21 U.S.C. § 841 in light of Apprendi v. New Jersey, 530 U.S. 466 (2000), because the statute treats drug type and quantity as sentencing factors. Madrigal raises the issue solely to preserve it for possible Supreme Court review. As Madrigal acknowledges, the argument is foreclosed by this court's decision in United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000).

The judgment of the district court is AFFIRMED.