

FILED

August 18, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-41721
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AMERICO CONTRERAS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-03-CR-120-1

Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:*

Americo Contreras appeals his guilty plea conviction for importation of marijuana into the United States. Contreras argues that 21 U.S.C. §§ 952 and 960 were rendered facially unconstitutional by Apprendi v. New Jersey, 530 U.S. 466, 490 (2000). Contreras concedes that his argument is foreclosed by our opinion in United States v. Slaughter, 238 F.3d 580, 581-82 (5th Cir. 2000), and he raises the issue to preserve it for further review.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

A panel of this court cannot overrule a prior panel's decision in the absence of an intervening contrary or superseding decision by this court sitting en banc or by the United States Supreme Court. Burge v. Parish of St. Tammany, 187 F.3d 452, 466 (5th Cir. 1999). No such decision overruling Slaughter exists. Accordingly, Contreras's argument is foreclosed. The judgment of the district court is AFFIRMED.