

November 9, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-20963  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEONEL ANDAYA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:02-CR-690-3  
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Before BARKSDALE, DeMOSS, and PRADO, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Leonel Andaya raises arguments that are foreclosed by United States v. Slaughter, 238 F.3d 580, 582-84 (5th Cir. 2000), which held that Apprendi v. New Jersey, 530 U.S. 466 (2000), did not render 21 U.S.C. § 841 unconstitutional on its face. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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