United States Court of Appeals Fifth Circuit

FILED

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

November 9, 2006

Charles R. Fulbruge III Clerk

No. 05-41394 Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS JOSE AGUERO,

Defendant-Appellant.

Appeal from the United States District Court for the Southern District of Texas USDC No. 7:04-CR-466-1

Before BARKSDALE, DeMOSS, and PRADO, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Jesus Jose Aguero raises arguments that are foreclosed by <u>United States v.</u> <u>Slaughter</u>, 238 F.3d 580, 582-84 (5th Cir. 2000), which held that <u>Apprendi v. New Jersey</u>, 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.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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