

June 20, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-30883
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRODRICK COLLINS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:04-CR-50048

Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:*

Brodrick Collins appeals the life sentence he received following his conviction by a jury for possession with the intent to distribute 50 grams or more of crack cocaine, in violation of 21 U.S.C. § 841(a), and three weapons charges. He argues, for the first time on appeal, that the mandatory life sentence he received violated his constitutional rights because the prior convictions on which it was based were not pleaded or proved to the jury.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

As Collins concedes, his challenge is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998). Although Collins contends that Almendarez-Torres was incorrectly decided and that a majority of the Supreme Court would overrule Almendarez-Torres in light of Apprendi v. New Jersey, 530 U.S. 466 (2000), we have repeatedly rejected such arguments on the basis that Almendarez-Torres remains binding. See United States v. Garza-Lopez, 410 F.3d 268, 276 (5th Cir. 2005). The argument fails for the additional reason that the Government pleaded the prior convictions in its notice of intent to seek the statutory maximum penalty, and Collins specifically admitted the fact of the convictions at sentencing.

The district court's judgment is AFFIRMED.