

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41271
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GERARDO MUNIZ, also known as Jesus Mario
Aguillon,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-01-CR-189-1

June 19, 2002

Before HIGGINBOTHAM, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Gerardo Muniz appeals his guilty-plea conviction and sentence for possessing with the intent to distribute approximately 70 kilograms of marijuana. Muniz contends that 21 U.S.C. § 841 is facially unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000).

As Muniz concedes, his argument is foreclosed by circuit precedent. See United States v. Slaughter, 238 F.3d 580, 582

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 01-41271

-2-

(5th Cir. 2000), cert. denied, 532 U.S. 1045 (2001). The judgment of the district court is AFFIRMED.