

June 22, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-41173
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO OSTOS-DEL ANGEL,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:04-CR-119-ALL

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Antonio Ostos-Del Angel (Ostos) appeals his guilty-plea conviction and sentence for importation into the United States from Mexico of approximately 31 kilograms of cocaine, in violation of 21 U.S.C. §§ 952(a), 960(a)(1) & (b)(1)(B) and 18 U.S.C. § 2. Ostos argues for the first time on appeal that 21 U.S.C. §§ 952 and 960(a) & (b) are unconstitutional in light of the Supreme Court's decision in Apprendi v. New Jersey, 530 U.S. 466 (2000). As Ostos concedes, this argument is foreclosed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

by our decision in United States v. Slaughter, 238 F.3d 580 (5th Cir. 2000).

AFFIRMED.