

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40710
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIO LOPEZ-GARCIA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-01-CR-63-1

June 19, 2002

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

PER CURIAM:*

Mario Lopez-Garcia appeals his guilty-plea conviction and sentence for possessing with the intent to distribute less than 20 kilograms of marijuana. Lopez-Garcia contends that 21 U.S.C. § 841 is facially unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000).

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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

582 (5th Cir. 2000), cert. denied., 532 U.S. 1045 (2001). He raises the issue only to preserve it for Supreme Court review. The judgment of the district court is AFFIRMED.