

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41090
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BALDOMERO DURAN, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-01-CR-375-1

August 21, 2002

Before HIGGINBOTHAM, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:*

Baldomero Duran, Jr., appeals his conviction following his guilty plea to importing 21 kilograms of marijuana in violation of 21 U.S.C. §§ 952(a) and 960(b)(4). Duran argues that §§ 952 and 960 are facially unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). He acknowledges that his argument is foreclosed by this court's decision in United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), cert. denied, 532

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

U.S. 1045 (2001), but raises the issue only to preserve it for review in the Supreme Court.

Slaughter applies by analogy to the instant case because the statutes at issue are similar in structure and content. One panel of this court may not overrule another. See United States v. Fowler, 216 F.3d 459, 461 (5th Cir.), cert. denied, 531 U.S. 960 (2000).

The judgment of the district court is AFFIRMED.