

**FILED**

**December 10, 2003**

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 03-40861  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBBY LAJUAN WILLIAMS,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. V-02-CR-112-ALL  
-----

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

PER CURIAM:\*

Robby LaJuan Williams appeals his guilty plea conviction for possession with intent to distribute less than five grams of cocaine base. Williams argues that 21 U.S.C. §§ 841 (a) and (b) were rendered facially unconstitutional by Apprendi v. New Jersey, 530 U.S. 466, 490 (2000). Williams concedes that his argument is foreclosed by our opinion in United States v. Slaughter, 238 F.3d 580, 581-82 (5th Cir. 2000), which rejected a broad Apprendi-based attack on the constitutionality of that

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

statute. He raises the issue only to preserve it for Supreme Court review. A panel of this court cannot overrule a prior panel's decision in the absence of an intervening contrary or superseding decision by this court sitting en banc or by the United States Supreme Court. Burge v. Parish of St. Tammany, 187 F.3d 452, 466 (5th Cir. 1999). No such decision overruling Slaughter exists. Accordingly, his argument is foreclosed, and the judgment of the district court is AFFIRMED.

The Government has moved for a summary affirmance in lieu of filing an appellee's brief. In its motion, the Government asks that an appellee's brief not be required. The motion is GRANTED.

AFFIRMED; MOTION GRANTED.