

**FILED**

February 18, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-41025  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAIME DE LA CRUZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-03-CR-74-1  
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Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:\*

Jaime De La Cruz appeals his guilty plea conviction for possession with the intent to distribute more than 1000 kilograms of marijuana in violation of 21 U.S.C. § 841. He argues that 21 U.S.C. § 841 is unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). De La Cruz concedes that this court rejected his argument in United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), but asserts that he is raising it to preserve it for Supreme Court review. As the argument is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

foreclosed by circuit precedent, the judgment of the district court is AFFIRMED.