

October 25, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-40173  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIA DE JESUS SAMUDIO-DE ALONSO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:04-CR-342-ALL  
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Before JOLLY, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

Maria de Jesus Samudio-de Alonso appeals her jury convictions for importing into the United States, and possessing with intent to distribute, cocaine. She argues pursuant to Apprendi v. New Jersey, 530 U.S. 466 (2000), that (1) a defendant's knowledge of drug type and drug quantity are material elements of the offense of conviction which must be proven beyond a reasonable doubt to a jury and, therefore, the evidence was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

insufficient to support her convictions and (2) 21 U.S.C. § 841 is facially unconstitutional.

She correctly concedes that these issues are foreclosed by United States v. Gamez-Gonzalez, 319 F.3d 695, 700 (5th Cir. 2003), and United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), respectively, and she raises them only to preserve their further review by the Supreme Court. We are bound by our precedent absent an intervening Supreme Court decision or a subsequent en banc decision. See United States v. Short, 181 F.3d 620, 624 (5th Cir. 1999).

AFFIRMED.