

FILED

February 24, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40074
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO GONZALEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:04-CR-254-1

Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Antonio Gonzalez pleaded guilty to possession with intent to distribute more than five kilograms of cocaine and was sentenced to 120 months of imprisonment and a five-year term of supervised release. Gonzalez argues for the first time on appeal that the provisions found in 21 U.S.C. § 841(a) and (b) are unconstitutional under Apprendi v. New Jersey, 530 U.S. 466 (2000). As he concedes, this issue is foreclosed. See United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000).

AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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