

United States Court of Appeals
Fifth Circuit**FILED**

June 21, 2006

Charles R. Fulbruge III
ClerkIN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-41471
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GERARDO LIEVANOS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:05-CR-254-1

Before STEWART, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

Gerardo Lievanos appeals his guilty-plea conviction of possession with intent to distribute more than 500 grams of cocaine. Lievanos argues, for the first time on appeal, that the district court lacked jurisdiction to convict and sentence him because 21 U.S.C. § 841 is unconstitutional under Apprendi v. New Jersey, 530 U.S. 466 (2000). Lievanos correctly concedes that his arguments are foreclosed by our opinion in United States v.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Slaughter, 238 F.3d 580, 582 (5th Cir. 2000). He raises the issue to preserve it for further review.

AFFIRMED.