

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30162
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEVAY BALLETT, also known as Pookie,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 99-CR-329-11-T

August 20, 2002

Before HIGGINBOTHAM, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:*

Levay Ballett appeals following his guilty-plea conviction and sentence for conspiracy to possess with intent to distribute cocaine base. He argues that, because the indictment did not specify a quantity of cocaine base, his sentence of 161 months' imprisonment was in violation of Apprendi v. New Jersey, 530 U.S. 466 (2000). Ballett's sentence was below the statutory maximum set out in the default sentencing provision for cocaine in 21

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

U.S.C. § 841(b)(1)(C), and his argument is without merit. See
United States v. Clinton, 256 F.3d 311, 314 (5th Cir.), cert.
denied, 122 S. Ct. 492 (2001).

AFFIRMED.