

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40064
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH WAYNE THOMAS,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 2:00-CR-25-4

August 28, 2002

Before JOLLY, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:*

Kenneth Wayne Thomas appeals the sentence that he received following his plea of guilty to conspiracy to manufacture methamphetamine. He asserts that the four-year term of supervised release that he received was excessive in light of Apprendi v. New Jersey, 530 U.S. 466 (2000), because the indictment did not allege a drug quantity. Because Thomas did not raise his challenge in the district court, review is for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

plain error. See United States v. Cotton, 122 S. Ct. 1781, 1785 (2002). Because the "essentially uncontroverted" evidence presented during the plea proceedings and in the factual resume supports the higher supervised-release term, no plain error occurred. See id. at 1786-87; United States v. Longoria, ___ F.3d ___, 2002 WL 1497184 at *5 (5th Cir. July 12, 2002, No. 00-50405)(en banc). Consequently, the judgment of the district court is AFFIRMED.