

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40314
Conference Calendar

MARCO ANTONIO ZAPATA-RODRIGUEZ,
Petitioner-Appellant,

versus

MICHAEL PURDY,
Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-01-CV-205

December 12, 2002

Before JOLLY, JONES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Marco Antonio Zapata-Rodriguez, who was convicted of several drug-related charges, appeals the district court's dismissal of his 28 U.S.C. § 2241 habeas corpus petition. He argued that his conviction and sentence were invalid under Apprendi v. New Jersey, 530 U.S. 466 (2000). Apprendi does not apply retroactively to cases on collateral review, and an Apprendi claim does not satisfy the test for filing a 28 U.S.C. § 2241

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

petition under the savings clause of 28 U.S.C. § 2255. See
Wesson v. U.S. Penitentiary, Beaumont, TX, 305 F.3d 343, 347-48
(5th Cir. 2002). Accordingly, the judgment of the district court
is AFFIRMED.