

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20725
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ALPHONSO CERDA

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CR-711-3

June 20, 2001

Before KING, Chief Judge, and BARKSDALE and STEWART, Circuit
Judges.

PER CURIAM:*

Alphonso Cerda appeals his guilty-plea conviction and sentence for aiding and abetting the possession with intent to distribute more than 500 grams of cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B) and 18 U.S.C. § 2. Cerda argues that his sentence was improper under Apprendi v. New Jersey, 530 U.S. 466 (2000), because the district court enhanced his sentence based on drug quantity and the possession of a firearm without those factors being determined by a jury beyond a

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

reasonable doubt. Cerda's argument is unavailing. Because the sentence imposed did not exceed the statutory maximum based on the drug quantity alleged in the indictment, Apprendi is inapplicable. See United States v. Keith, 230 F.3d 784, 787 (5th Cir. 2000), cert. denied, 121 S. Ct. 1163 (2001); United States v. Doggett, 230 F.3d 160, 164-65 (5th Cir. 2000), cert. denied, 121 S. Ct. 1152 (2001).

AFFIRMED.