

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-40292  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DONALD KEITH KING,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-00-CR-437-1  
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December 11, 2001

Before HIGGINBOTHAM, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Donald Keith King appeals his sentence following his conviction of one count of possession with intent to distribute more than 500 grams of cocaine, a violation of 21 U.S.C. § 841(b)(1)(B) and 18 U.S.C. § 2. He argues that his sentence violates the principles espoused in Apprendi v. New Jersey, 530 U.S. 466 (2000) because it was based in part on a quantity of crack cocaine that was not determined by the trier of fact. This argument is foreclosed by United States v. Doggett, 230 F.3d 160, 164-65 (5th Cir. 2000), cert. denied, 121 S. Ct. 1152 (2001).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

King acknowledges that this argument is foreclosed, but he raises it to preserve it for review by the Supreme Court.

King has not shown error in the district court's judgment. Accordingly, that judgment is AFFIRMED.