

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-60795
Conference Calendar

ANTHONY LEONARD PARKER,

Petitioner-Appellant,

versus

KHURSHID YUSUFF,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:00-CV-305-BrS

December 12, 2002

Before JOLLY, JONES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Anthony Leonard Parker, federal prisoner # 09116-017, has filed a 28 U.S.C. § 2241 petition challenging his 1991 conviction for conspiring to possess cocaine with intent to distribute. He asserts that because the indictment did not allege and the jury was not required to find the drug type or quantity beyond a reasonable doubt, his conviction and sentence are invalid under Apprendi v. New Jersey, 530 U.S. 466 (2000). Apprendi does not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

apply retroactively to cases on collateral review, and an Apprendi violation does not establish that a prisoner was convicted of a nonexistence offense. Wesson v. U.S. Penitentiary Beaumont, Tex., 305 F.3d 343, 347-48 (5th Cir. 2002); Reyes-Requena v. United States, 243 F.3d 893, 904 (5th Cir. 2001). Parker has not established that he is entitled to present his claims under 28 U.S.C. § 2241, and the district court's judgment is AFFIRMED.