

April 17, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-21061
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GARLAND STEWART,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-730-ALL

Before BARKSDALE, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Garland Stewart appeals the revocation of supervised release on his convictions for conspiring to distribute cocaine and for distributing cocaine. He seeks to challenge the constitutionality of 21 U.S.C. § 841(a) and (b) in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). Because a challenge under Apprendi is not jurisdictional, he may not present this claim in an appeal following the revocation of supervised release. See

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

United States v. Moody, 277 F.3d 719, 720-21 (5th Cir. 2001).
Moreover, as Stewart concedes, his Apprendi argument is foreclosed
by United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000).
The judgment of the district court is AFFIRMED.