

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-30309  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WELTON L. WRIGHT,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 01-CV-507  
USDC No. 95-CR-30024-2  
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December 12, 2002

Before JOLLY, JONES, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Welton L. Wright, federal prisoner # 09039-035, appeals the district court's dismissal of his 28 U.S.C. § 2255 motion as untimely. Wright's motion challenged his sentence for conspiracy to distribute cocaine base and distribution of cocaine base. The district court granted Wright a certificate of appealability ("COA") because this court had not yet decided whether Appendi

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

v. New Jersey, 530 U.S. 466 (2000), applied retroactively to an initial 28 U.S.C. § 2255 motion.

We recently concluded that Apprendi does not apply retroactively to cases on initial collateral review. See United States v. Brown, 305 F.3d 304 (5th Cir. 2002). In Brown, we stated that "Apprendi creates a new rule of criminal procedure which is not retroactively applicable to initial petitions under [28 U.S.C.] § 2255." Id. at 310. Therefore, the district court did not err in concluding that Apprendi does not apply retroactively to cases on initial collateral review, or in concluding that Wright's motion was untimely.

We do not reach the other issues raised by Wright because he has not expressly sought to expand the COA grant to include these issues. See United States v. Kimler, 150 F.3d 429, 431 (5th Cir. 1998) (party must expressly seek a COA on additional issues not certified by the district court).

AFFIRMED.