

April 24, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-40848  
Conference Calendar

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DARRYL LAMAR REED,

Petitioner-Appellant,

versus

MICHAEL PURDY, Warden,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-01-CV-264  
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Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Darryl Lamar Reed ("Reed") appeals the district court's dismissal of his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Reed asserts that because the jury was not required to find the drug quantity beyond a reasonable doubt, his conviction and sentence are invalid under Apprendi v. New Jersey, 530 U.S. 466 (2000). Apprendi does not apply retroactively to cases on collateral review, and an Apprendi violation does not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

establish that a petitioner was convicted of a nonexistent offense. Wesson v. U.S. Penitentiary Beaumont, TX, 305 F.3d 343, 347 (5th Cir. 2002), cert. denied, 123 S. Ct. 1374 (2003).

AFFIRMED.