United States Court of Appeals
Fifth Circuit
F I L E D
May 22, 2003
Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 02-51044
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID MILLER,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-98-CV-455-DB
USDC No. EP-97-CR-90-1-DB

Before JONES, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

David Miller, federal prisoner # 02280-025, appeals from the district court's denial of relief on his 28 U.S.C. § 2255 motion, which he filed to attack his conviction and sentence on one count of conspiring to possess with intent to distribute an unspecified quantity of marijuana in violation of 21 U.S.C. § 846 and 841(a)(1). The district court granted a certificate of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appealability (COA) on the issue of the retroactive applicability of Apprendi v. New Jersey, 466 U.S. 530 (2000), to cases on collateral review. We have previously determined that Teague v. Lane, 489 U.S. 288 (1989), bars the application of Apprendi to cases on initial collateral review, however, United States v. Brown, 305 F.3d 304, 310 (5th Cir. 2002), precluding relief here.

In addition to his briefing of the Apprendi issue, Miller argues that the district court erred in refusing relief on other claims. Because Miller has failed to make an "express request" that this court extend the order granting a COA to include such issues, this court need not address these additional arguments. See United States v. Kimler, 150 F.3d 429, 431 (5th Cir. 1998); Lackey v. Johnson, 116 F.3d 149, 151-52 (5th Cir. 1997).

Accordingly, the judgment of the district court is AFFIRMED.