IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 02-20665
Summary Calendar
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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ADRIAN TODD ALLEN,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CR-414-1

March 20, 2003

Before DAVIS, DUHÉ, and DeMOSS, Circuit Judges.

PER CURIAM:[1]

A jury found Adrian Todd Allen guilty of one charge of being

a felon in possession of a firearm and one charge of possessing a

firearm in connection with a drug offense, violations of 18 U.S.C.

§§ 922(g), 924(c). Allen appeals following this court's remand to

the district court for resentencing. See United States v. Allen,

282 F.3d 339, 343 (5th Cir. 2002). Allen argues for the first time

in this appeal that his sentence violates the principles announced

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in <u>Apprendi v. New Jersey</u>, 530 U.S. 466, 490 (2000), because the jury was not required to make factual findings concerning his prior convictions. He concedes that this argument is foreclosed by <u>Almendarez-Torres v. United States</u>, 523 U.S. 224 (1998), but he seeks to preserve the issue for Supreme Court review in light of <u>Apprendi v. New Jersey</u>, 530 U.S. 466 (2000). <u>Apprendi</u> did not overrule <u>Almendarez-Torres</u>. <u>See</u> <u>Apprendi</u>, 530 U.S. at 489-90; <u>see also</u> <u>United States v. Dabeit</u>, 231 F.3d 979, 984 (5th Cir. 2000). This argument is thus unavailing.

Allen also argues that his sentence is contrary to <u>Apprendi</u> because the jury did not make factual findings regarding whether he possessed a firearm in connection with a drug offense. Allen is mistaken. The jury specifically found this fact beyond a reasonable doubt by convicting him of the 18 U.S.C. § 924(c) charge. Allen has not shown that the district court erred in sentencing him. Accordingly, the district court's judgment is

AFFIRMED.