

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-60238  
Summary Calendar

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KENNETH GLENN ATKINSON

Petitioner - Appellant

v.

UNITED STATES OF AMERICA

Respondent - Appellee

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 5:01-CV-48-GR  
- - - - -

October 10, 2002

Before KING, Chief Judge, and WIENER and PARKER, Circuit Judges.

PER CURIAM:\*

Kenneth Glenn Atkinson, federal prisoner #10776-042, appeals the district court's dismissal with prejudice of his 28 U.S.C. § 2241 petition in which he asserted a sentencing error based on Apprendi v. New Jersey, 530 U.S. 466 (2000). Atkinson has failed to address the district court's determination that it lacked jurisdiction to rule on his petition. Atkinson has therefore

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

waived argument on this issue. See Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993).

This appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). It is therefore DISMISSED. 5TH CIR. R. 42.2.

APPEAL DISMISSED.