

UNPUBLISHED  
**UNITED STATES COURT OF APPEALS**  
**FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

v.

MORRIS LAMONTE MACK, a/k/a  
Lamont,

*Defendant-Appellant.*

No. 00-4832

Appeal from the United States District Court  
for the District of South Carolina, at Aiken.  
Cameron McGowan Currie, District Judge.  
(CR-00-94-CMC)

Submitted: April 10, 2001

Decided: April 30, 2001

Before MICHAEL, MOTZ, and GREGORY, Circuit Judges.

---

Affirmed by unpublished per curiam opinion.

---

**COUNSEL**

Jan S. Strifling, Columbia, South Carolina, for Appellant. Stacey Denise Haynes, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

**OPINION**

## PER CURIAM:

Morris Lamonte Mack appeals from a 324-month term of imprisonment imposed following his guilty plea to conspiracy to possess with intent to distribute powder cocaine and crack cocaine. Mack's attorney has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Counsel states that there are no meritorious grounds for appeal but addresses the following issue: whether Mack's sentence violates *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348 (2000), because his sentence was enhanced due to a prior felony drug conviction. Relying on *Apprendi*, Mack has filed a pro se supplemental brief raising three issues: (1) his sentence is invalid; (2) his guilty plea was not knowing and voluntary; and (3) the indictment was defective. Finding no reversible error, we affirm.

Under *Apprendi*, any fact, other than a prior conviction, that increases the maximum penalty for a crime is an element of the offense, and as such, must be charged in the indictment, submitted to a jury, and proven beyond a reasonable doubt. 120 S. Ct. at 2362-63. The district court's decision to use Mack's prior felony drug conviction to enhance his sentence under 21 U.S.C.A. § 841(b)(1)(C) (West 1999) was not in error. *See Almendarez-Torres v. United States*, 523 U.S. 224 (1998); *United States v. Jones*, \_\_\_ F.3d \_\_\_, 2001 WL 294306, \*3 (7th Cir. Mar. 28, 2001).

We find the issues raised in Mack's pro se supplemental brief are without merit.

We have examined the entire record in this case in accordance with the requirements of *Anders*, and we find no meritorious issues for appeal. Accordingly, we affirm the conviction and sentence. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on the client.

---

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

*AFFIRMED*