

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6389

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JINKINS HOPKINS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Dennis W. Shedd, District Judge. (CR-99-341, CA-01-4177-3-19)

Submitted: July 30, 2002

Decided: August 22, 2002

Before WIDENER, WILLIAMS, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jinkins Hopkins, Appellant Pro Se. Mark C. Moore, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jinkins Hopkins seeks to appeal the district court's order denying his motion under 28 U.S.C. § 2255 (2000). He raises a claim under Apprendi v. New Jersey, 530 U.S. 466 (2000), asserting that his sentence on three charges arising out of a marijuana conspiracy violates the statutory maximum set forth in 21 U.S.C. § 841(b)(4) (2000). The decision in Apprendi issued prior to Hopkins' conviction, and he did not object to his sentence in light of Apprendi. Accordingly, this claim is procedurally barred. See Bousley v. United States, 523 U.S. 614, 622 (1998); United States v. Sanders, 247 F.3d 139, 145 (4th Cir.), cert. denied, ___ U.S. ___, 122 S. Ct. 573 (2001). Thus, we deny a certificate of appealability and dismiss the appeal. 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.

DISMISSED