

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6264

ROBERT THOMAS HAMRIC,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (CA-00-899-5-BR(2))

Submitted: July 26, 2001

Decided: July 31, 2001

Before WILKINS, LUTTIG, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert Thomas Hamric, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Robert Thomas Hamric seeks to appeal the district court's order denying relief without prejudice on his action challenging his conviction and sentence imposed in the United States District Court for the Eastern District of Virginia. Hamric filed his claim for relief under 28 U.S.C. § 2241 (1994). Because he was challenging his sentence, the district court construed his action as a 28 U.S.C.A. § 2255 (West Supp. 2000) motion and denied relief on the ground that the court lacked jurisdiction. Hamric seeks to challenge the validity of his drug conspiracy conviction under Apprendi v. New Jersey, 530 U.S. 466 (2000). Even if Apprendi claims are cognizable under § 2241, Hamric's eighty month sentence for conspiring to distribute and possess with intent to distribute methamphetamine in violation of 21 U.S.C.A. § 846 (West 1999) does not violate Apprendi. See United States v. Angle, ___ F.3d ___, No. 96-4662, 2001 WL 732124, at *2 (4th Cir. June 29, 2001) (en banc) (finding no Apprendi error where sentence for conspiracy to commit a drug offense involving unspecified drug quantity was under twenty years). Accordingly, we affirm the district court's order denying relief without prejudice. 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