

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

VERNON D. BURCH,
Petitioner-Appellant,

v.

UNITED STATES DEPARTMENT OF
JUSTICE; BUREAU OF PRISONS; DAN L.
DOVE, Warden,
Respondents-Appellees.

No. 01-7929

Appeal from the United States District Court
for the District of South Carolina, at Charleston.
Margaret B. Seymour, District Judge.
(CA-01-840-2-24AJ)

Submitted: March 12, 2002

Decided: May 22, 2002

Before WIDENER, TRAXLER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Vernon D. Burch, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Vernon D. Burch appeals the district court's order denying relief on his 28 U.S.C. § 2241 (1994) petition. Burch, who had previously filed an unsuccessful 28 U.S.C.A. § 2255 (West Supp. 2001) motion and an unsuccessful 28 U.S.C.A. § 2244 (West 1994 & Supp. 2001) motion for authorization to file a successive § 2255 motion, asserted that his conviction and sentence were invalid under *Cage v. Louisiana*, 498 U.S. 39 (1990), and *Apprendi v. New Jersey*, 530 U.S. 466 (2000). Because the Supreme Court decided *Cage* before Burch was convicted, we find that he could not raise this claim under § 2241. *In re Jones*, 226 F.3d 328, 333-34 (4th Cir. 2000). Moreover, because his sentence did not exceed the statutory maximum for his offense of conviction, it does not implicate the concerns raised by *Apprendi*. *United States v. Kinter*, 235 F.3d 192, 201 (4th Cir. 2000), *cert. denied*, 532 U.S. 937 (2001); *United States v. Angle*, 254 F.3d 514, 518 (4th Cir. 2001) (en banc), *cert. denied*, 70 U.S.L.W. 3244 (U.S. Oct. 2, 2001) (No. 01-5838). We therefore affirm the district court's order denying relief on Burch's § 2241 petition.* 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

*We grant Burch's motion to supplement the record.