

UNPUBLISHED

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

ORVILLE ISAAC WRIGHT, <i>Petitioner-Appellant,</i>  v.  JOSEPH BROOKS, Warden, <i>Respondent-Appellee.</i>
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No. 02-6038

Appeal from the United States District Court  
for the Eastern District of North Carolina, at Raleigh.  
Terrence W. Boyle, Chief District Judge.  
(CA-01-939-5-BO)

Submitted: June 11, 2002

Decided: June 26, 2002

Before MOTZ and KING, Circuit Judges, and  
HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Orville Isaac Wright, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

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**OPINION**

## PER CURIAM:

Orville Isaac Wright, a federal prisoner serving a 292 month sentence for conspiracy to distribute cocaine and marijuana, appeals the district court's dismissal of his petition filed pursuant to 28 U.S.C. § 2241 (1994). Following the denial of his direct appeal, Wright filed a belated motion pursuant to 28 U.S.C.A. § 2255 (West Supp. 2001). The district court dismissed the motion, and this Court affirmed that ruling. Thereafter, Wright filed a motion pursuant to 28 U.S.C.A. § 2244 (West 1994 & Supp. 2001) seeking authorization to file a successive § 2255 motion. We denied that motion. In this § 2241 petition, Wright raises a challenge to his sentence based upon *Apprendi v. New Jersey*, 530 U.S. 466 (2000). He also brings claims of prosecutorial misconduct, a *Brady* violation, and ineffective assistance of counsel. The district court dismissed the petition, stating that § 2255 is not rendered inadequate or ineffective merely because an individual is unable to obtain relief under that provision. Wright timely noted this appeal.

We have held that *Apprendi* claims cannot be initially raised in a § 2255 proceeding. *United States v. Sanders*, 247 F.3d 139, 146 (4th Cir. 2001). More recently, we held that *Apprendi* claims are not cognizable in a § 2241 petition because *Apprendi* does not apply retroactively and § 2255 is not rendered inadequate or ineffective merely because a habeas petitioner, such as Wright, is barred from filing a § 2255 motion. See *San-Miguel v. Dove*, No. 01-6115, slip op. at 6 & n.2, \_\_\_ F.3d \_\_\_, 2002 WL 1020723 (4th Cir. May 21, 2002). Thus, Wright's *Apprendi* challenge fails under *San-Miguel*'s holding.

The remainder of Wright's claims are attacks on his judgment of conviction that can be presented, if at all, only in a successive § 2255 motion. See § 2255 ¶ 8. Section 2255 is not rendered inadequate or ineffective merely because a habeas petitioner such as Wright is unable to obtain relief under that provision. See *In re: Jones*, 226 F.3d 328, 333 (4th Cir. 2000).

Accordingly we affirm the judgment of the district court. We dispense with oral argument, because the facts and legal contentions are

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adequately presented in the materials before the court and argument would not aid the decisional process.

*AFFIRMED*