

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-41149  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE GERMAN ROSALES-SHAMOSH,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-98-CR-516-1  
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June 13, 2001

Before WIENER, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:\*

Jose German Rosales-Shamosh (Rosales) appeals from the district court's denial of his motion styled "Motion to Dismiss Indictment Pursuant to [Fed. R. Crim. P. 12(b)(2)]." His motion argued that the indictment failed to adequately allege a drug quantity as required by Apprendi v. New Jersey, 530 U.S. 466 (2000), and Jones v. United States, 526 U.S. 227 (1999). Because Rosales does not address the district court's reasons for dismissing his motion, namely that his motion was untimely and that the proper avenue of relief was for Rosales to request

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

permission from this court to file a successive 28 U.S.C. § 2255 motion, he has abandoned the only issue before this court. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). The district court's denial of Rosales's motion is affirmed. Rosales's motion for appointment of counsel is denied.

AFFIRMED; MOTION FOR APPOINTMENT OF COUNSEL DENIED.