

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 00-3053

September Term, 2000

(No. 97CR0471)

United States of America,
Appellee

Filed On: May 22, 2001 [597832]

v.

Wilbert J. Drew,
Appellant

Appeal from the United States District Court for the District of Columbia

Before: EDWARDS, *Chief Judge*, GINSBURG, and TATEL, *Circuit Judges*.

JUDGMENT

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs of the parties. The court has determined that the issues presented occasion no need for a published opinion. See D.C. Cir. Rule 36(b). It is

ORDERED AND ADJUDGED that the district court's order of May 3, 2000 sentencing the appellant be affirmed.

The appellant's sole contention is that, in light of the decision of the Supreme Court in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), the district court erred in enhancing his sentence based upon disputed facts not found by a jury. The offense to which the appellant pleaded guilty -- possessing a firearm while subject to a court order -- carries a maximum penalty of imprisonment for ten years. See 18 U.S.C. § 924(a)(2). The appellant's sentence of imprisonment for 65 months is well within that statutory maximum. In this circumstance *Apprendi* does not apply. See *In re Sealed Case No. 00-3057*, ___ F.3d ___ (D.C. Cir. 2001).

The clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

By:

Deputy Clerk