

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

---

No. 00-2456

---

United States of America,

Appellee,

v.

Lamont Gentry Falls,

Appellant.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

Appeal from the United States  
District Court for the Southern  
District of Iowa.

[UNPUBLISHED]

---

Submitted: September 13, 2000

Filed: October 30, 2000

---

Before BEAM, HANSEN, and BYE, Circuit Judges.

---

PER CURIAM.

This case initially came before the court on appellant's application for a certificate of appealability from the district court's denial of his 28 U.S.C. § 2255 motion and on appeal from a denial of appellant's motion for recusal. We denied the application and summarily affirmed the district court's denial of the recusal motion. Appellant thereafter filed a motion for a limited remand in order to raise a new claim for relief before the district court in light of the Supreme Court's decision in Apprendi v. New Jersey, 120 S. Ct. 2348 (2000).

We construe appellant's motion for limited remand as a motion for leave to file a second or successive § 2255 motion. In our recent decision in Rodgers v. United States, No. 00-2916 (8th Cir. Oct. 13, 2000), we held that an Apprendi claim is unavailable in a second or successive § 2255 motion because the Supreme Court has not made the constitutional rule announced in Apprendi applicable to cases on collateral review. Based on our reasoning in Rodgers, we deny appellant's motion without prejudice. Should the Supreme Court later provide that Apprendi is retroactive, appellant may again seek leave to file a second or successive § 2255 motion before the district court raising his Apprendi claim.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT