

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 99-4128

Jack L. Sargent, Jr.,

Appellant,

v.

United States of America,

Appellee.

*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the Western
District of Missouri.

[UNPUBLISHED]

Submitted: November 29, 2000

Filed: December 1, 2000

Before BEAM, FAGG, and LOKEN, Circuit Judges.

PER CURIAM.

After we affirmed Jack L. Sargent, Jr.'s conviction and sentence for conspiring to manufacture methamphetamine and carrying a firearm during and in relation to a drug trafficking crime, Sargent brought this 28 U.S.C. § 2255 proceeding. Sargent claimed his sentence on the drug conspiracy count was illegal because the indictment did not cite the applicable penalty statute. The district court denied relief without an evidentiary hearing, but granted Sargent a certificate of appealability based on the Supreme Court's recent decision in Jones v. United States, 526 U.S. 227 (1999).

Based on our de novo review, we conclude the denial of relief was proper. Sargent was sentenced below the twenty-year statutory maximum term of imprisonment he faced under 21 U.S.C. § 841(b)(1)(C), without reference to drug quantity, for his involvement with methamphetamine, a schedule II controlled substance. See Appendi v. New Jersey, 120 S. Ct. 2348, 2362-63 (2000) (other than fact of prior conviction, any fact that increases penalty beyond prescribed statutory maximum must be submitted to jury and proved beyond reasonable doubt); United States v. Aguayo-Delgado, 220 F.3d 926, 930-34 (8th Cir.) (discussing Appendi and affirming sentence within statutory range allowable for conspiracy to distribute methamphetamine regardless of drug quantity), petition for cert. filed, (Oct. 16, 2000) (No. 00-6746).

We affirm the district court.

A true copy.

Attest:

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