



U.S. Department of Justice

United States Attorney  
District of Minnesota

600 United States Courthouse  
100 South Fourth Street  
Minneapolis, MN 55411  
[www.usdoj.gov/minnoffice](http://www.usdoj.gov/minnoffice)

(612)664-5600

June 18, 2001

Mr. Michael Gans, Clerk  
U.S. Court of Appeals  
for the Eighth Circuit  
Clerks office  
Thomas F. Eagleton Court House  
Room 24.329, 111 S. 10<sup>th</sup> Street  
St. Louis, Missouri 63102

Re: John Gregory Lambros v. United States  
Eighth Circuit No. 01-2370MN

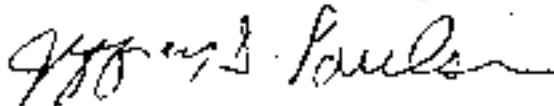
Dear Mr. Gans:

Enclosed please find an original and three copies of the  
Opposition of the United States to Petitioner's Application to file  
Successive Section 2255 Petition.

Petitioner is also being served by copy of this letter and its  
enclosures.

Respectfully submitted,

ROBERT M. SMALL  
United States Attorney

  
BY: JEFFREY S. PAULSEN  
Assistant U.S. Attorney  
Attorney ID Number 144332

JSP:ama  
Enclosures

→ cc: John G. Lambros  
Registration Number 00436-124  
US Penitentiary Leavenworth  
P.O. Box 1000  
Leavenworth, KS 66048-1000

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT  
No. 01-2370MN

JOHN GREGORY LAMBROS, )  
 )  
 Petitioner, )  
 )  
 v. ) OPPOSITION OF THE UNITED STATES  
 ) TO PETITIONER'S APPLICATION  
 ) TO FILE SUCCESSIVE SECTION  
 UNITED STATES OF AMERICA, ) 2255 PETITION  
 )  
 Respondent. )

Petitioner John Gregory Lambros seeks to file a successive petition under 28 U.S.C. § 2255 challenging his drug conviction. Specifically, he seeks to raise a claim based on the Supreme Court's decision in Apprendi v. New Jersey, 120 U.S. 2348 (2000). It is undisputed that this would be a successive section 2255 petition.

Lambros' motion to file a successive section 2255 petition should be denied. This Court already has held that, "because the Supreme Court has not made Apprendi retroactive to cases on collateral review, [a petitioner] is barred from raising the issue in a second or successive § 2255 motion." Abdullah v. United States, 240 F.3d 683, 687 (8th Cir. 2001); see also Rodgers v. United States, 229 F.3d 704, 706 (8th Cir. 2000).

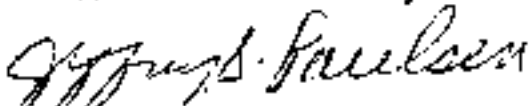
This petition also should be denied because it constitutes an abuse of the writ. Lambros already has filed a nearly identical motion to file a successive petition raising an Apprendi claim and this Court already has denied it. Lambros v. United States, No. 01-1954 (8th Cir. June 6, 2001) (copy attached). In fact, this

Court denied Lambros' previous request to file a successive petition raising an Apprendi claim on June 6, 2001. The present request to file a successive petition raising an Apprendi claim was filed the next day, June 7, 2001. Altogether, Lambros has now filed at least six post-conviction petitions (or requests to file petitions) challenging his conviction. This Court should not be forced to continually entertain these repetitive petitions, and the government should not be forced to respond to them. Because Lambros has chosen to abuse the writ, an order should be entered enjoining him from filing any further petitions. E.g., United States v. Green, 630 F.2d 566 (8th Cir. 1980).

Respectfully submitted,

Dated: June 18, 2001

ROBERT M. SMALL  
United States Attorney

  
BY: JEFFREY S. PAULSEN  
Assistant U.S. Attorney  
Attorney ID Number 144332

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

No. 01-1954

John Gregory Lambros,  
Petitioner,

vs.

United States of America,  
Respondent.

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•  
•  
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On application for Permission  
to file a Successive Habeas  
Petition

Before LOKEN, BEAM, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

JUDGMENT

The petition for authorization to file a successive habeas application in the district court is denied. Mandate shall issue forthwith.

(5544-010199)

June 6, 2001

A TRUE COPY.

ATTEST:

*Michael E. Gans*

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