



U.S. Department of Justice

United States Attorney
District of Minnesota

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July 16, 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. 10th Street
St. Louis, Missouri 63102

Re: John Gregory Lambros v. United States
Eighth Circuit No. 01-2671

Dear Mr. Gans:

Enclosed please find an original and three copies of the
Opposition of the United States to Petitioner's Application to file
Second or 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

COPY

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
No. 01-2671

JOHN GREGORY LAMBROS,)	
)	
Appellant,)	
)	
v.)	OPPOSITION OF THE UNITED STATES
)	TO PETITIONER'S APPLICATION
)	TO FILE SECOND OR SUCCESSIVE
UNITED STATES OF AMERICA,)	SECTION 2255 PETITION
)	
Appellee.)	

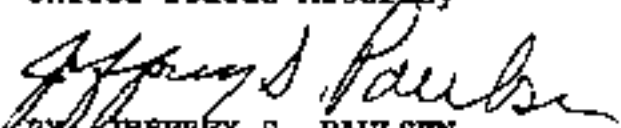
Petitioner John Gregory Lambros seeks to file a second or a successive petition under 28 U.S.C. § 2255 challenging his drug conviction. Specifically, he seeks to raise a claim based on the Supreme Court's decision in Apprendi v. New Jersey, 120 S. Ct. 2348 (2000). It is undisputed that this would be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

Petitioner's 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).

Respectfully submitted,

Dated: July 16, 2001

ROBERT M. SMALL,
United States Attorney


BY: JEFFREY S. PAULSEN
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Attorney ID Number 144332