

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-51015
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRODERICK THOMPSON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-00-CR-245-ALL
- - - - -

August 13, 2002

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Broderick Thompson appeals his conviction for conspiracy, health care fraud, theft from a health care program, false statements relating to health care matters, money laundering promotion, and money laundering greater than \$10,000. He argues that the district court erred in overruling his objection to the constitution of the jury venire panel on the basis that African-Americans were underrepresented. Thompson has failed to satisfy

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

either the second or the third prong of the analysis set forth in Duren v. Missouri, 439 U.S. 357, 363-70 (1979). He has failed to demonstrate that the representation of African-Americans in venires from which juries are selected is not fair and reasonable in relation to the number of African-Americans in the community and that this underrepresentation is due to systematic exclusion of African-Americans in the jury-selection process. 439 U.S. at 364. We reject Thompson's argument for adoption of the comparative disparity analysis. See United States v. Maskeny, 609 F.2d 183, 190 (5th Cir. 1980); see also, United States v. Weaver, 267 F.3d 231, 241-48 (3d Cir. 2001), cert. denied, 122 S. Ct. 1118 (2002).

AFFIRMED.