

May 22, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-50827  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

J. C. STOCKTON, JR.,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:06-CR-55-1  
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Before REAVLEY, GARZA and BENAVIDES, Circuit Judges.

PER CURIAM:\*

J. C. Stockton, Jr., appeals the 120-month sentence imposed following his guilty-plea convictions for conspiracy to possess with intent to distribute cocaine base and possession with intent to distribute cocaine base. He argues for the first time on appeal that the guidelines sentence imposed was unreasonable because the district court failed to take into account the disparate way that crack cocaine and powder cocaine are treated by the United States Sentencing Guidelines. He also argues for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the first time on appeal that his trial counsel was ineffective for failing to raise that issue at sentencing.

Stockton has not demonstrated that the district court plainly erred by imposing an unreasonable sentence. See United States v. Mares, 402 F.3d 511, 518-19, 520 (5th Cir. 2005). We have previously rejected arguments challenging the disparity in the penalties for offenses involving powder and crack cocaine, which are mandated by Congress. See, e.g., United States v. Wilson, 77 F.3d 105, 112 (5th Cir. 1996).

We decline to review Stockton's ineffective assistance claim in this direct appeal. See United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987).

AFFIRMED.