

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50780
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TERRENCE MOUTON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-95-CR-256-1
- - - - -

July 7, 1997

Before HIGGINBOTHAM, JONES and DeMOSS, Circuit Judges.

PER CURIAM:*

Terrence Mouton appeals his bench trial conviction for possession with intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1), and use and carrying of a firearm during and in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1). Substantial evidence supports the trial court's finding, beyond a reasonable doubt, that Mouton carried a firearm during and in relation to a drug trafficking

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

offense. See United States v. Fike, 82 F.3d 1315, 1328 (5th Cir. 1996), cert. denied, 117 S. Ct. 241 (1996). The district court did not err in not suppressing evidence. See Arizona v. Hicks, 480 U.S. 321, 326 (1987); Horton v. California, 496 U.S. 128, 136-37 (1990). The disparity in sentencing between powdered cocaine and cocaine base does not violate the equal protection clause or due process. See United States v. Cherry, 50 F.3d 338, 344 (5th Cir. 1995).

AFFIRMED.