

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-10515  
Conference Calendar

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UNITED STATES OF AMERICA,  
versus

Plaintiff-Appellee,

ANDRE BICKENS, also known as Damion Henderson,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:98-CR-68-1-Y  
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February 16, 2000

Before EMILIO M. GARZA, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Andre Bickens appeals his conviction and sentence after he pleaded guilty to possession with intent to distribute crack cocaine and to possession of a firearm during a drug offense. Bickens argues that the Sentencing Guidelines, which establish heavier penalties for cocaine base offenses than for powder cocaine offenses, are unconstitutional. Because this court has repeatedly rejected this argument, see United States v. Fonts, 95 F.3d 372, 374 (5th Cir. 1996), Bickens's appeal is DISMISSED as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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