

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-11473  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FREDDIE EUGENE PHILLIPS,  
a/k/a Heavy, a/k/a Fat Freddie,  
a/k/a 4 Finger Fred,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:96-CR-068-A  
- - - - -

October 23, 1997

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:\*

Freddie Eugene Phillips appeals his sentence following a guilty plea to two counts of maintaining a building for the purpose of manufacturing, distributing, and using controlled substances. Phillips contends that the disparity in penalties for offenses involving powdered cocaine and cocaine base violates the Eighth Amendment and principles of equal protection and due process. This court has previously rejected Phillips' argument.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

See United States v. Fisher, 22 F.3d 574, 579-80 (5th Cir. 1994);  
United States v. Mathena, 23 F.3d 87, 91 (5th Cir. 1994).

We do not address Phillips' suggestion that the court give his arguments en banc consideration. See Fifth Cir. R. 35.2.

DISMISSED. 5th Cir. R. 42.2.