

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-50125  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERNEST FRANKLIN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. SA-95-CR-240(1)

- - - - -  
August 21, 1996

Before KING, DUHÉ, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Ernest Franklin appeals his sentences for conspiracy to distribute crack cocaine and aiding and abetting in its distribution. Franklin contends that the disparity between crack and powder cocaine guideline sentences violates equal protection and due process. This court has consistently rejected the argument that the disparity in sentencing with respect to cocaine powder and cocaine base constitutes a violation of equal

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

protection, due process, or the Eighth Amendment. See e.g., United States v. Wilson, 77 F.3d 105, 112 (5th Cir. 1996). We find that Franklin's appeal is frivolous.

APPEAL DISMISSED. See 5th Cir. R. 42.2.