

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-1004

United States of America,

Appellee,

v.

Sheldon H. Thomas,

Appellant.

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* Appeal from the United States
* District Court for the
* District of Nebraska.

* **[UNPUBLISHED]**

Submitted: May 24, 2000
Filed: May 30, 2000

Before McMILLIAN, LOKEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Sheldon Thomas appeals the 121-month sentence imposed by the district court¹ after he pleaded guilty to conspiring to distribute cocaine base, in violation of 21 U.S.C. § 846. Thomas raises one issue on appeal, that his sentence is excessive because the sentencing disparity between cocaine base and powder cocaine lacks a rational basis. However, this court has repeatedly rejected that contention and as a panel we are not free to revisit the issue. See, e.g., United States v. Clary, 34 F.3d 709,

¹The HONORABLE JOSEPH H. BATAILLON, United States District Judge for the District of Nebraska.

712 (8th Cir. 1994) (collecting cases), cert. denied, 513 U.S. 1182 (1995).
Accordingly, we affirm.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.