



denied, 115 S. Ct. 1172 (1995), and United States v. Buckner, 894 F.2d 975 (8th Cir. 1990), but only the court en banc can overturn the decision of another panel of the court, United States v. Polanco, 53 F.3d 893, 896 (8th Cir. 1995), pet. for cert. filed, No. 95-5022 (U.S. June 29, 1995). We have consistently rejected the claim that any disparate impact occasioned by the distinction between the penalties for crack and powder cocaine violates the Equal Protection Clause, see, e.g., United States v. Delaney, 52 F.3d 182, 189 (8th Cir.), cert. denied, 116 S. Ct. 209 (1995); and we recently refused to reconsider Clary, United States v. Thompson, 51 F.3d 122, 127 (8th Cir. 1995).

We also conclude Thomas's Eighth Amendment argument--that the "vastly disproportionate penalty" for crack "offends constitutional principles of proportionality"--is foreclosed by our decisions in Thompson, 51 F.3d at 127; United States v. Wesley, 990 F.2d 360, 367 (8th Cir. 1993); and United States v. Winfrey, 900 F.2d 1225, 1227 (8th Cir. 1990).

Accordingly, the judgment of the district court is affirmed.

A true copy.

Attest:

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