
No. 95-4233

United States of America,

Appellee,

v.

Juan Beavers,

Appellant.

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* Appeal from the United States
* District Court for the
* Eastern District of Missouri.

* [UNPUBLISHED]
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Submitted: July 23, 1996

Filed: August 28, 1996

Before FAGG, BOWMAN, and HANSEN, Circuit Judges.

PER CURIAM.

Juan Beavers appeals the 151-month sentence imposed by the District Court¹ after he pleaded guilty to possessing cocaine base (crack) with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) (1994). We affirm.

At sentencing, Beavers, an African-American, objected to his offense-level calculation, which was derived from the penalty scheme set forth in 21 U.S.C. § 841(b)(1), providing the same penalties for given amounts of crack and 100 times greater amounts of powder cocaine (the 100-to-1 ratio). Beavers's objection was premised on Congress's rejection of a proposed amendment to the Sentencing Guidelines (Amendment 5) which would have eliminated the 100-to-1 ratio and equalized the penalties for crack and powder cocaine. Beavers argued the 100-to-1 ratio had a disproportionate

¹The Honorable Charles A. Shaw, United States District Judge for the Eastern District of Missouri.

adverse effect on African-Americans, Congress's rejection of Amendment 5 evidenced a discriminatory purpose on Congress's part in maintaining the penalty scheme, and thus, continued application of the penalty scheme violated his Fifth Amendment equal protection and due process rights. The District Court overruled Beavers's objection, and he appeals. We rejected the challenge Beavers raises here in United States v. Carter, No. 96-1329, 1996 WL 453275, at *2-*3 (8th Cir. Aug. 13, 1996) (per curiam).

Accordingly, the judgment of the District Court is affirmed.

A true copy.

Attest:

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