
No. 96-2776

United States of America,

Appellee,

v.

Andy Lawuary,

Appellant.

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

[UNPUBLISHED]

Submitted: October 31, 1996

Filed: November 27, 1996

Before BEAM, HANSEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Andy Lawuary, an African-American, challenges the 210-month sentence imposed by the district court¹ after he pleaded guilty to possessing cocaine and cocaine base (crack) with intent to distribute, in violation of 21 U.S.C. § 841(a)(1), and being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). We affirm.

At issue is Lawuary's 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. Lawuary argues that the 100-to-1 ratio has a disproportionate adverse effect on African-

¹The Honorable George F. Gunn, Jr., United States District Judge for the Eastern District of Missouri.

Americans; Congress's rejection of the Sentencing Commission's proposed amendment to the Sentencing Guidelines--which would have eliminated the 100-to-1 ratio and equalized the penalties for crack and powder cocaine--evidences a discriminatory purpose on Congress's part in maintaining the penalty scheme; and, thus, continued application of the scheme violates his Fifth Amendment equal protection and due process rights.

We recently rejected similar arguments in United States v. Carter, 91 F.3d 1196, 1198-99 (8th Cir. 1996) (per curiam).

Accordingly, the judgment of the district court is affirmed.

A true copy.

Attest:

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