

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-2480EA

United States of America,

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Appellee,

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Appeal from the United States

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District Court for the Eastern

v.

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District of Arkansas.

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Alvin J. Johnson, also known as Albert
Johnson,

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[UNPUBLISHED]

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Appellant.

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Submitted: September 16, 1997

Filed: September 19, 1997

Before FAGG, BOWMAN, and MURPHY, Circuit Judges.

PER CURIAM.

Alvin J. Johnson appeals from the guidelines sentence imposed by the district court. On appeal, Johnson renews the challenge he made in the district court, namely, the 100-to-1 sentencing ratio for crack versus powder cocaine violates Johnson's equal protection and due process rights. Johnson's challenge, however, is foreclosed by our decisions upholding the constitutionality of the 100-to-1 ratio. See, e.g., United States v. Carter, 91 F.3d 1196, 1197-99 (8th Cir. 1996) (per curiam); United States v. Jackson, 67 F.3d 1359, 1367 (8th Cir. 1995), cert. denied, 116 S. Ct. 1684 (1996); see

also United States v. Jackson, 64 F.3d 1213, 1220 (8th Cir. 1995) (rejecting challenge based on rule of lenity), cert. denied, 116 S. Ct. 966 (1996).

Accoridngly, we affirm Johnson's sentence.

A true copy.

Attest:

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