

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

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No. 98-1386EM

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United States of America,	*	
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Appellee,	*	Appeal from the United States
	*	District Court for the Eastern
v.	*	District of Missouri.
	*	
William L. Cooley,	*	[UNPUBLISHED]
	*	
Appellant.	*	

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Submitted: July 17, 1998  
Filed: July 17, 1998

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Before FAGG, BEAM, and LOKEN, Circuit Judges.

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PER CURIAM.

William L. Cooley pleaded guilty to possessing "cocaine base (crack)" with intent to distribute, in violation of 21 U.S.C. § 841(a)(1), and to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). Using the Guidelines for crack cocaine, the district court sentenced Cooley to concurrent prison terms of 78 months plus four years supervised release. Cooley appeals his sentence, and we affirm.

Cooley contends the disparate sentencing scheme for crack as opposed to powder cocaine violated his Fifth Amendment right to equal protection and due process. Cooley also contends that our earlier decisions on this issue are no longer

applicable in light of the United States Sentencing Commission's April 1997 report and the proposal of Attorney General Reno and Drug Czar McCaffrey (forwarded to Congress by President Clinton), both of which recommend modifying the sentencing scheme. Congress has not changed the law, however, and Cooley's challenge 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, 517 U.S. 1192 (1996).

We thus affirm Cooley's sentence.

A true copy.

Attest:

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