

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-60310
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTOINE MATTHEWS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:94-CR-125
- - - - -

March 29, 1996

Before DAVIS, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:*

Appellant appeals his jury conviction and sentence for conspiracy to possess cocaine base, 21 U.S.C. § 846, and use of a communication facility in furtherance of a drug crime, 21 U.S.C. § 843(b), complaining of insufficiency of the evidence and attacking the constitutionality of the sentencing guidelines disparate treatment of cocaine base and cocaine powder. Our review of the record and the arguments and authorities convince

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

us that no reversible error was committed. The evidence was not insufficient. See United States v. Gallo, 927 F.2d 815, 820-21 (5th Cir. 1991). Appellant's challenges to the constitutionality of the guidelines are without merit. See United States v. Fisher, 22 F.3d 574, 579-80 (5th Cir.), cert. denied, 115 S. Ct. 529 (1994) (Eighth Amendment challenge); United States v. Watson, 953 F.2d 895, 897-98 (5th Cir.), cert. denied, 504 U.S. 928 (1992) (due process and equal protection challenges). Appellant's motion to strike portions of the Government's brief is DENIED.

AFFIRMED.