

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40035
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIE DEAN WOODS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:95-CR-6-1
- - - - -

June 25, 1996

Before HIGGINBOTHAM, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Willie Dean Woods appeals his sentences for possession of crack cocaine with intent to distribute and possession of a firearm by a convicted felon. Woods contends that the disparity between crack and powder cocaine guideline sentences violates the Equal Protection Clause. He argues that Congress's rejection of the Sentencing Commission's recommendation indicates a discriminatory intent on the part of Congress and that the

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Commission's report indicates that the disparity lacks a rational basis. Woods also contends that he was subjected to selective prosecution.

First, the crack/powder disparity does not violate the Equal Protection Clause. *United States v. Wilson*, 77 F.3d 105, 112 (5th Cir. 1996). Second, Woods has failed to brief his selective-prosecution contention. *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Third, Woods's appeal is frivolous. We warn appointed counsel that he has "no duty to bring frivolous appeals; the opposite is true." *United States v. Burlison*, 22 F.3d 93, 95 (5th Cir.), cert. denied, 115 S. Ct. 283 (1984).

APPEAL DISMISSED. See 5TH CIR. R. 42.2.