

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 96-4157

ANDRE TERRY HALL,
Defendant-Appellant.

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 96-4158

ALAND TRACY HALL,
Defendant-Appellant.

Appeals from the United States District Court
for the Western District of Virginia, at Danville.
Jackson L. Kiser, Chief District Judge.
(CR-94-92)

Submitted: October 17, 1996

Decided: October 29, 1996

Before MURNAGHAN and WILLIAMS, Circuit Judges, and
BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Joseph Robert Johnson, Jr., JOSEPH R. JOHNSON & ASSOCIATES, Lynchburg, Virginia; Joseph Abraham Sanzone, JOSEPH A. SANZONE ASSOCIATES, Lynchburg, Virginia, for Appellants. Robert P. Crouch, Jr., United States Attorney, Ray B. Fitzgerald, Jr., Assistant United States Attorney, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Pursuant to written plea agreements, Aland Tracy Hall and Andre Terry Hall pled guilty to conspiracy to possession with intent to distribute and distribution of cocaine base in violation of 21 U.S.C.A. § 846 (West Supp. 1996). Prior to sentencing, the Defendants each moved for the district court to sentence them under the statute penalizing cocaine offenses, 21 U.S.C.A. § 841(b)(1)(A)(ii) (West Supp. 1996), rather than under the statute penalizing cocaine base (crack) offenses, 21 U.S.C.A. § 841(b)(1)(A)(iii) (West Supp. 1996). Citing the 1994 Annual Report of the United States Sentencing Commission, they argued that the 100-to-1 statutory sentencing ratio for cocaine powder and crack offenses denies them equal protection because of its disparate impact on black defendants. The district court denied the motions and sentenced Aland Hall and Andre Hall each to 150 months imprisonment, five years of supervised release, and a special assessment of \$50.

The Defendants appeal their sentences, arguing only that the 100-to-1 statutory sentencing ratio for cocaine and crack offenses violates the Equal Protection Clause of the Fifth Amendment because of its disparate impact on black defendants. This claim has been considered

and rejected before, United States v. Fisher, 58 F.3d 96, 99-100 (4th Cir.), cert. denied, ___ U.S. #6D6D 6D#, 64 U.S.L.W. 3270 (U.S. Oct. 10, 1995) (No. 95-5923), and we decline the Halls' invitation to reconsider this issue. We therefore affirm Aland Hall's and Andre Hall's sentences. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED