**UNITED STATES COURT OF APPEALS**
**for the Fifth Circuit**

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No. 92-5735
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee,

VERSUS

RONALD LEE TODD,

Defendant-Appellant.

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Appeal from the United States District Court
for the Western District of Texas
(SA 92 CR 160 1)

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September 3, 1993

Before DAVIS, JONES and DUHÉ, Circuit Judges.

PER CURIAM:[1]

This is another challenge to the application of the sentencing guidelines.

The sole question presented is whether the trial court erred in concluding that two earlier state drug convictions were not related cases. The district court, based upon its finding that the two state convictions were not related, imposed a sentence against

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[1]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Ronald Lee Todd (Todd) under the career offender provisions of the guidelines.

In August 1992, Todd entered a guilty plea to a charge of unlawfully distributing cocaine base in January 1991. The district court accepted the PSI's recommendation that two state court convictions for sale of cocaine on September 25 and October 18, 1988, were not related offenses. In other words, the district court concluded that these two convictions qualified as separate sentences for controlled substance offenses and sentenced appellant as a career offender under § 41B.1 of the sentencing guidelines. Appellant argued in the district court as he argues here that the two prior offenses qualified as "part of a single, common scheme or plan under the commentaries of § 4A1.2. The district court rejected this argument.

We review **de novo** the district court's finding that Todd's prior convictions were unrelated. **United States v. Ford**, No. 92-8396, Slip Op. at 5512 (5th Cir. July 12, 1993). Todd argues that the following uncontested facts surrounding the two earlier convictions require us to consider them as "related offenses:"

Appellant sold small quantities of cocaine to the same San Antonio police department undercover officer in the same vicinity in a span of about four weeks. The first sale took place on September 25, 1988, when the officer purchased a "dime" or a $10 quantity of crack cocaine. On October 18, the officer drove to the same vicinity and purchased $20 worth of cocaine from appellant and another individual.

Two recent opinions of this court dispose of Todd's arguments. In **Ford**, Slip op. at 5512-13, we considered whether the district court erred in treating four earlier state court methamphetamine delivery convictions as "'prior sentences imposed in unrelated cases'" for purposes of 4A1.1(a). All four of Ford's charges arose from sales to the same undercover officer during a six-day period. In fact, two of Ford's four sales occurred on the same date and at the same motel. We concluded that:

> Each sale was a separate transaction, separated by hours, if not days. The fact that the buyer was the same did not make the sales "related" any more than if Ford made four separate trips to the same H.E.B. in one week to buy groceries--there was no common scheme or plan, simply convenience and experience.

**See also United States v. Garcia**, 962 F.2d 479, 480-81 (5th Cir.), **cert. denied**, ___U.S. ___, 113 S.Ct. 293, 121 L.Ed.2d 217 (1992).

Thus, because we find no error, the district court's sentence is affirmed.

AFFIRMED.