UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 94-30244
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

DOMINICK VILLAFRANCO,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
(CR93 432 F)

(December 2, 1994)

Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:[1]

Appellant was sentenced following his plea of guilty. In computing his sentence the Probation Department considered his prior convictions for possession of drugs and stolen property in 1980; burglary, and a 1982 conviction for possession of stolen property. The Appellant complains of his sentence in two respects. We affirm.

First, Appellant contends that his burglary and stolen property convictions were related and should have been treated as

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

one sentence under Guidelines § 4A1.2(a)(2) for purposes of determining his criminal history category. If this is so, he argues that the district court should have ignored his prior burglary conviction rather than his prior stolen property conviction.

The addendum to the presentence report indicates that the district court did consider the burglary and stolen property convictions related. The question which of the two should have been considered and which ignored was not raised by Appellant in the district court so we examine only for plain error using the standards of United States v. Olano, 113 S. Ct. 1770 (1993); and United States v. Calverly, ___ F.3d ___, 1994 WL 574181 (5th Cir. 1994) (en banc). The Guidelines do not address the issue of which sentence should be considered (or which ignored) in this situation, nor have we found a case dealing with the issue. If, therefore, it be error to do as the district court did (which we do not decide) that error could not have been plain under Olano and Calverly.

Next, Appellant contends that, regardless which of the stolen property or burglary convictions is used, his drug conviction and both the burglary and stolen property convictions are related because they were part of a common scheme or plan to support his drug habit, and they were consolidated for trial and sentencing. This argument lacks merit.

Relatedness within the meaning of § 4A1.2(a)(2) requires more than mere similarity of crimes. United States v. Ford, 996 F.2d 83, 86 (5th Cir. 1993), cert. denied, 114 S. Ct. 704 (1994); United

States v. Garcia, 962 F.2d 479, (5th Cir.) cert. denied, 113 S. Ct. 293 (1992); United States v. Cain, 10 F.3d 261, 262-63 (5th Cir. 1993). Crimes are not related simply because they are temporally or geographically like. Garcia, 962 F.2d at 482. Even a series of drug sales were found to be unrelated, separate transactions which were motivated by convenience or experience, not by a common plan or scheme. Ford, 996 F.2d at 86.

Appellant's second contention that the cases are related because they were consolidated for trial and sentencing, would have had merit if the district court had not already excluded the 1980 stolen property conviction in computing Appellant's criminal history category. Appellant has not established that it was plain error for the district court to exclude that conviction rather than the burglary conviction.

AFFIRMED.