

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50580
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OLLIE GENE LONG,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-94-CR-21(1)

- - - - -
March 21, 1995

Before GARWOOD, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

A district court may adopt facts contained in the PSR without further inquiry if the facts have an adequate evidentiary basis and the defendant does not present rebuttal evidence. United States v. Puig-Infante, 19 F.3d 929, 943 (5th Cir.), cert. denied, 115 S. Ct. 180 (1994). A defendant who objects to consideration of information by the sentencing court bears the burden of proving that the information is "materially untrue,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

inaccurate or unreliable." United States v. Angulo, 927 F.2d 202, 205 (5th Cir. 1991).

Long did not offer evidence at sentencing to dispute the accuracy or reliability of the disputed hearsay information related by DEA Agent Gary Harrison. See United States v. Lghodaro, 967 F.2d 1028, 1030 (5th Cir. 1992)(objections in the form of unsworn assertions do not bear sufficient indicia of reliability to be considered).

The court properly relied on the PSR and Harrison's testimony relating to the second informant's reliability and credibility.

To determine whether certain prior conduct qualifies as relevant under U.S.S.G. § 1B1.3(a)(2), this court must consider the similarity, regularity, and temporal proximity of the conduct. United States v. Bethley, 973 F.2d 396, 401 (5th Cir. 1992), cert. denied, 113 S. Ct. 1323 (1993). The district court considered Long's conduct occurring in July 1993 to be similar and regular conduct. This court does not consider a seven-month hiatus to be detrimental to a finding of temporal proximity. See United States v. Robins, 978 F.2d 881, 889-90 (5th Cir. 1992)(18-months); see also Bethley, 973 F.2d at 401 (six months). The July 1993 conduct is sufficiently similar and temporally proximate to indicate a continuing involvement in cocaine distribution.

The district court's finding that the July 1993 conduct was relevant to the offense of conviction is not clearly erroneous.

AFFIRMED.