

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10863
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN EDWARD WRIGHT,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:95-CR-43-A
- - - - -

June 27, 1996
Before HIGGINBOTHAM, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

John Edward Wright appeals his sentence for possession with intent to distribute cocaine, arguing that the district court erred by failing to treat three prior state-court convictions for aggravated robbery as "related cases" for sentencing purposes. Wright argues that the cases are related because they would be considered as consolidated for sentencing under Ninth Circuit law

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

and nonbinding commentary in a Sentencing Commission publication, and he suggests that principles of federalism and the rule of lenity dictate that state law should not determine whether prior convictions are considered as "consolidated" under the Sentencing Guidelines.

The Ninth Circuit's holding on this issue is irrelevant because, under the law in this circuit, Wright's prior convictions are not deemed to have been consolidated for sentencing. See United States v. Gipson, 46 F.3d 472, 476 (5th Cir. 1995). The Sentencing Commission publication cited by Wright is not binding on this court. United States v. Kings, 981 F.2d 790, 795 n.10 (5th Cir.), cert. denied, 508 U.S. 953 (1993).

AFFIRMED.