

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 92-5657

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERT DE LA GARZA,

Defendant-Appellant.

---

Appeal from the United States District Court for  
the Western District of Texas  
SA 92 CR 32 2

---

June 23, 1993

Before REAVLEY, KING and GARWOOD, Circuit Judges.

PER CURIAM:\*

De La Garza has been sentenced as a career offender under guideline § 4B1.1. The two prior convictions were in state court and were predicated upon separate deliveries of heroin, on June 23 and on July 5, in 1987. He contends that the two prior convictions should be treated as related and, for sentencing under the guidelines, as only one conviction.

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

United States v. Garcia, 962 F.2d 479 (5th Cir. 1992) gives the answer. The two prior crimes were distinct, separate deliveries of heroin. They were the subject of separate indictments and judgments in the state court. As in Garcia, these convictions were therefore unrelated. The defendant urges us to overrule Garcia, but that is something only the en banc court can do.

AFFIRMED.