

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-21047
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIC L. ROHDEN,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CR-298-1

September 1, 2000

Before EMILIO M. GARZA, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Eric L. Rohden appeals from the judgment entered after he pleaded guilty to receipt of a firearm while under an indictment.

Rohden argues that the district court erred at sentencing by failing to treat five prior Texas drug convictions as related for purposes of U.S.S.G. § 4A1.2(a)(2). Having reviewed his arguments, we conclude that Rohden cannot make the requisite showing that the prior cases were consolidated. See United States v. Huskey, 137 F.3d 283, 288 (5th Cir. 1998). Rohden's reliance on LaPorte v. Texas, 840 S.W.2d 412 (Tex. Crim. App.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

1992) (en banc), is misplaced. See United States v. Fitzhugh, 984 F.2d 143, 147 n.18 (5th Cir. 1993). Finally, because the prior Texas convictions were unrelated for purposes of sentencing, Rohden cannot show that the district court's denial of his motion for a downward departure was tainted by any legal error. See § 2K2.1 cmt. 5.

AFFIRMED.