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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WILLIAM JOHN MAHAN,

Defendant - Appellant.

No. 08-30475

D.C. No. 6:06-CR-60045-AA

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Ann L. Aiken, Chief District Judge, Presiding

Argued and Submitted October 6, 2009
Portland, Oregon

Before: O'SCANNLAIN and N.R. SMITH, Circuit Judges, and WOLLE,** Senior District Judge.

William Mahan appeals his sentence arising from a conviction for three offenses related to his firearm possession and drug trafficking activities. The facts

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable Charles R. Wolle, Senior United States District Judge for the Southern District of Iowa, sitting by designation.

are known to the parties and need not be repeated here, except as necessary to explain our decision.¹

Mahan challenges the district court's determination that a drug purchase occurring roughly a month before the drug transaction that led to his conviction was "relevant conduct" for sentencing purposes. *See* U.S. Sentencing Guidelines Manual § 1B1.3. Specifically, Mahan argues that the two transactions were not "part of the same course of conduct or common scheme or plan as the offense of conviction." *Id.* § 1B1.3(a)(2).

Mahan's two drug transactions occurred within less than a month. Both were drug sales, and both transactions involved the same type of drug, methamphetamine. Given the similarity and proximity of these two transactions, we do not believe the district court's determination that they were part of the same course of conduct was clearly erroneous. Therefore, the district court's sentencing decision is

AFFIRMED.

¹ Mahan's claim that he did not possess firearms in furtherance of a drug trafficking offense by receiving guns in exchange for drugs is addressed in an opinion filed concurrently with this memorandum disposition.