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NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with
Fed. R. App. P. 32.1

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United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Argued April 22, 2009
Decided October 20, 2009

Before

DANIEL A. MANION, *Circuit Judge*

MICHAEL S. KANNE, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

No. 08-3746

UNITED STATES OF AMERICA,	Appeal from the United States District Court for the Eastern District of Wisconsin.
Plaintiff-Appellee,	
v.	No. 06 CR 207
TOYA OLDS,	Rudolph T. Randa,
Defendant-Appellant.	*Judge*.

O R D E R

Toya Olds was part of a ring that starting in the mid-1990s sold millions of dollars worth of cocaine in Milwaukee, Wisconsin. She pleaded guilty to conspiracy to distribute cocaine, 21 U.S.C. §§ 846, 841(a)(1), and was sentenced, as a career offender, to 188 months' imprisonment. Olds did not contest her career-offender designation at sentencing or in her appellate brief, but at oral argument we raised the possibility that the application of the guideline was erroneous because it was based, in part, on a conviction for "second-degree recklessly endangering safety." *See* WIS. STAT. § 941.30(2). As we recently held, this offense is not a crime of violence. *United States v. Bishop*, No. 08-1950, 2009 WL 2503646, at *1 (7th Cir. Aug. 17, 2009); *see also United States v. Woods*, No. 07-3851, 2009 WL 2382700 (7th Cir. Aug. 5, 2009); *United States v. Smith*, 544 F.3d 781, 786 (7th Cir. 2008). And although we ordinarily we do not evaluate issues not presented by the parties themselves, the error here

is plain, *United States v. High*, No. 08-1970, 2009 WL 2382747, at *2 (7th Cir. Aug. 5, 2009), and we are always free to correct a plain error on our own authority, FED. R. CRIM. P. 52(b); *United States v. Atkinson*, 297 U.S. 157, 160 (1934); *United States v. Neal*, 512 F.3d 427, 439 n.11 (7th Cir. 2008); *United States v. Muriel*, 418 F.3d 720, 723 n.1 (7th Cir. 2005).

Olds's sentence is VACATED, and the case is REMANDED for resentencing.