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USA v. Peter Nguyen

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 09-1332

UNITED STATES OF AMERICA,

v.

PETER NGUYEN,
Appellant.

Appeal from the United States
District Court for the Eastern District of Pennsylvania
(No. 08-cr-00089)
District Court Judge: Honorable Stewart Dalzell

Submitted Under Third Circuit L.A.R. 34.1(a)
October 1, 2009

Before: AMBRO, GARTH, and ROTH, *Circuit Judges*
(Opinion Filed: October 20, 2009)

OPINION

GARTH, *Circuit Judge*:

On February 13, 2008, a grand jury returned an indictment charging Nguyen with:

(1) conspiracy to distribute at least 1,000 kilograms of marijuana, (2) conspiracy to

distribute MDMA, (3) distribution of methamphetamine, ecstasy, and ketamine, and (4) conspiracy to import 60,000 MDMA pills from Canada. 21 U.S.C. §§ 841(a)(1), 846, 952(a), 963. Nguyen was tried and convicted of all four charges in August 2008, and sentenced to 276 months' imprisonment.

Nguyen filed a pro se notice of appeal. His counsel filed a motion to withdraw and supporting brief pursuant to Anders v. California, 368 U.S. 738 (1967). Counsel's brief analyzed each issue pertaining to conviction and found them to be frivolous. On review, we agree. After the government filed its brief in response, Nguyen filed an informal pro se brief as permitted by Local Appellate Rule 109.2(a), pertaining only to his sentence.

On September 5, 2009, Nguyen died in prison. Pursuant to United States v. Christopher, 273 F.3d 294 (3d Cir. 2001), we therefore abate his conviction and sentence, and remand to the District Court with instructions to dismiss the indictment.