

AUG 19 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SON VAN NGUYEN,

Defendant - Appellant.

No. 07-10586

D.C. No. CR-99-00433-WBS-6

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
William B. Shubb, District Judge, Presiding

Submitted August 11, 2009\*\*

Before: KLEINFELD, M. SMITH and IKUTA, Circuit Judges.

Appellant Son Van Nguyen appeals from the district court's November 19, 2007 judgment upon limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc). The district court resentenced Van Nguyen to

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

a total term of life imprisonment plus 60 months. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Van Nguyen contends that the district court committed procedural error and that the sentence is substantively unreasonable. A limited remand pursuant to *Ameline* requires only that the district court determine whether it would have imposed a materially different sentence under an advisory Guidelines system. The district court explicitly stated during resentencing that it would not have sentenced Van Nguyen any differently had it been aware that the sentencing guidelines were only advisory. We conclude that the district court understood the scope of its discretion following *United States v. Booker*, 543 U.S. 220 (2005). *See United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir. 2006). Accordingly, the district court's decision was reasonable. *See id.*

**AFFIRMED.**