

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 13 2009

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TIEN NGUYEN,

Defendant - Appellant.

No. 08-10083

D.C. No. CR-07-00024-LRH

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding

Argued and Submitted December 8, 2008
San Francisco, California

Before: SCHROEDER, TASHIMA, and W. FLETCHER, Circuit Judges.

Tien Nguyen (“Nguyen”) appeals his sentence for possession of stolen goods in violation of 18 U.S.C. §§ 2315 and 2. We hold that Nguyen waived the right to appeal his sentence and dismiss.

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

In his plea agreement, Nguyen waived his right to appeal any sentence within the applicable sentencing guidelines range, “the manner in which that sentence was determined,” and “any other aspect of his conviction or sentence.” He reserved only the right to appeal a sentence departing upward from the applicable guidelines range. In challenging the district court’s adoption of the PSR’s criminal history points, Nguyen appeals the court’s calculation of his sentence. Nguyen waived the right to appeal on this ground.

DISMISSED.