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USA v. Salvador

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-3672

UNITED STATES OF AMERICA

v.

LUCIANO SALVADOR,

Appellant.

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(No. 02-cr-00269)
District Judge: Hon. Thomas I. Vanaskie

Submitted Under Third Circuit LAR 34.1(a)
June 19, 2007

Before: McKEE, FISHER, and CHAGARES, Circuit Judges.

(Filed: July 2, 2007)

OPINION OF THE COURT

CHAGARES, Circuit Judge.

Counsel for Luciano Salvador petitions this Court for permission to withdraw from representation of Salvador pursuant to Anders v. California, 386 U.S. 738 (1967). For the reasons that follow, we will grant the motion and affirm Salvador's sentence.

As we write only for the parties, we do not set out the facts in great detail. On April 23, 2002, a grand jury returned a six-count indictment charging Salvador and others with possession of cocaine and crack cocaine and conspiracy to distribute cocaine and cocaine base, all in violation of 21 U.S.C. § 846. Pursuant to a plea agreement, Salvador pled guilty on November 18, 2002 to possession with intent to distribute in excess of 50 grams of crack cocaine. In exchange for Salvador's plea of guilty, the Government acceded to a two-level reduction in Salvador's offense level for acceptance of responsibility.

On August 21, 2003, the District Court sentenced Salvador to 188 months of incarceration. While his initial appeal was pending, Salvador moved for and was granted a summary remand following United States v. Booker, 543 U.S. 220 (2005). Following remand, the District Court imposed a sentence of 150 months of incarceration, a reduction of more than three years from the term of incarceration originally imposed. This appeal followed.¹

The Anders brief submitted to this Court demonstrates that Salvador's attorney has "thoroughly examined the record in search of appealable issues," and has explained why any issues arguably supporting the appeal are frivolous. United States v. Youla, 241 F.3d 296, 300 (3d Cir. 2001). Moreover, an independent review of "those portions of the record identified by [the] Anders brief" reveals no non-frivolous issues Salvador might

¹Because Salvador has not filed a pro se brief, we do not know what error he assigns to the District Court.

profitably raise on appeal. Id. at 301. Accordingly, we will grant the Anders motion and affirm Salvador's sentence without appointing new counsel. See 3d Cir. L.A.R. 109.2.