

Appeal Reinstated and Order filed June 25, 2020



In The

Fourteenth Court of Appeals

NO. 14-18-00063-CR

LANG YEN NGUYEN, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 331st District Court
Travis County, Texas
Trial Court Cause No. D-1-DC-15-500273**

ORDER

Appellant was convicted of continuous sexual abuse of a child (count 1), two counts of aggravated sexual assault of a child (counts 8 and 9), and two counts of sexual assault of a child (counts 2 and 3). Appellant filed a notice of appeal for the cause, which includes five judgments of conviction. Appellant's original appointed counsel filed a single brief on appeal, which challenged count 1, the conviction for continuous sexual abuse of a child. Appellant did not raise any issues challenging the convictions for aggravated sexual assault of a child or sexual assault of a child (counts 2, 3, 8, and 9).

Because appellant's original counsel did not raise any issues challenging the convictions for aggravated sexual assault of a child or sexual assault of a child, or otherwise follow the procedures set out in *Anders v. California*, 386 U.S. 738, 742-44 (1967), and because the records reflect no prior agreement between appellant and his original counsel to only appeal count 1, we determined that appellant's original counsel deprived appellant of effective assistance of counsel.

On October 15, 2019, we abated this case to allow appellant to move to dismiss the appeals of the convictions for aggravated sexual assault of a child and sexual assault of a child (counts 2, 3, 8, and 9). *See* Tex. R. App. P. 42.2(a). Appellant has not moved to dismiss those appeals.

In the order issued on October 15, 2019, we further ordered appellant's then-counsel to file a brief by November 8, 2019, if appellant did not intend to dismiss his appeal of counts 2, 3, 8, and 9. On November 12, 2019, appellant's then-counsel filed a motion to extend time to file an amended brief. Counsel stated he was dealing with a serious illness that was causing him delay in preparing the brief. We granted counsel until January 13, 2020 to file a brief. No brief was filed. On February 4, 2020, we issued an order directing counsel to file a brief by February 12, 2020. No brief was filed. On February 27, 2020, we directed the judge of the 331st District Court to hold a hearing to determine why a brief had not been filed.

On April 22, 2020, we received a letter from the Honorable Chantal Eldrige, judge of the 331st District Court stating that appellant's prior counsel had abandoned all his cases and that new counsel, Donna Keith, had been appointed.

We now REINSTATE the case and ORDER Donna Keith to (1) file a motion to dismiss the appeals of counts 2, 3, 8, and 9; (2) file an *Anders* brief in counts 2, 3, 8, and 9; **OR** (3) file a brief on the merits as to counts 2, 3, 8, and 9

within **30 days from today's date.** Counsel may also move to dismiss as to some counts, file an *Anders* brief as to some counts, and/or file a brief on the merits as to some counts—any combination of which counsel thinks would provide effective representation to appellant. If counsel chooses to file a brief on the merits and counsel believes it is necessary to address count 1, counsel may file a motion to amend the originally filed brief. Furthermore, although it is through no fault of current counsel, Donna Keith, that this case has not moved forward more expediently, the court will not be inclined to grant any extensions in this case.

PER CURIAM

Panel Consists of Justices Wise, Zimmerer, and Spain.