

SEP 16 2003

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk) *[Signature]*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff )  
 )  
 v. )  
 )  
 BERT DOUGLAS MONT- )  
 GOMERY, DUSEAN BERKICH, )  
 and, TOMAS B. ALDAN, )  
 )  
 Defendants )  
 \_\_\_\_\_ )

Criminal Case No. 02-00010

ORDER VACATING  
JUDGMENT OF CONVICTION  
AS TO DEFENDANT BERKICH  
AND DISMISSING THE  
INDICTMENT AS TO HIM

THE COURT having been advised by the U.S. Probation Office that  
defendant Dusean Berkich died on August 10, 2003, after the date of his  
conviction; and,

IT BEING a "well-settled principle of law that all criminal proceedings  
abate *ab initio* when the defendant dies pending direct appeal of his criminal

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conviction, United States v. Schumann, 861 F.2d 1234 (11th Cir. 1988); NOW,  
THEREFORE,

IT IS ORDERED that the judgment of conviction of defendant Dusean  
Berkich be and hereby is vacated; and,

IT IS FURTHER ORDERED that the indictment against him be and  
hereby is dismissed with prejudice. *See e.g. United States v. Lewis*, 676 F.2d 508,  
510 n.1 (11th Cir.), *cert. denied*, 459 U.S. 976, 103 S.Ct. 313 (1982).

DATED this 16<sup>TH</sup> day of September, 2003.

  
\_\_\_\_\_  
ALEX R. MUNSON  
Judge