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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>ROBERT COMITO,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 06-10749

D.C. No. CR-02-00574-RCJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Robert C. Jones, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

Robert Comito appeals from the 120-month sentence imposed upon
resentencing following a limited remand pursuant to *United States v. Ameline*, 409

* 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).

F.3d 1073, 1079 (9th Cir. 2005) (en banc). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Comito's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. Appellant has filed a pro se supplemental brief and a pro se reply brief, and the government has filed an answering brief.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988), discloses no arguable grounds for relief on direct appeal.

Accordingly, counsel's motion to withdraw is **GRANTED**. Appellant's motion for substitution of counsel is **DENIED**. The district court's judgment is **AFFIRMED**.