

JUN 30 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ADRIAN OBISPO-TORRES, a.k.a. Jose
Obispo-Garcia, Adrian Obispo Torres,

Defendant - Appellant.

No. 08-10020

D.C. No. CR-07-00868-CKJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Adrian Obispo-Torres appeals from the 57-month sentence imposed following his guilty-plea conviction for illegal re-entry after deportation, in

* 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).

violation of 8 U.S.C. § 1326(a). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Obispo-Torres' counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. Obispo-Torres has filed a pro se supplemental brief and a motion to correct his sentence. The government has filed a motion to dismiss this appeal based on the appeal waiver in Obispo-Torres' plea agreement.

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.

The government's motion to dismiss is **DENIED**. See *United States v. Jacobo Castillo*, 496 F.3d 947, 954 (9th Cir. 2007) (en banc). The appellant's motion to correct his sentence is also **DENIED**.

Counsel's motion to withdraw is **GRANTED**, and the district court's judgment is **AFFIRMED**.