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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NOT FOR PUBLICATION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.

SYLVESTER KWESI MONYOR
NAABEH,

Defendant - Appellant.

No. 08-10079

D.C. No. CR-06-00979-RCC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

Submitted October 13, 2009**

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Sylvester Kwesi Monyor Naabeh appeals from his jury-trial conviction and two concurrent 22-month sentences for transportation of illegal aliens for the

* 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).

purpose of commercial advantage or private financial gain, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii), (a)(1)(B)(i), and his jury-trial conviction and concurrent 12-month sentence for assault of a federal officer, in violation of 18 U.S.C. § 111(a)(1). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Naabeh's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided the appellant with the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

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**. We **VACATE** and **REMAND** the term of supervised release for Count 3 because it exceeds the statutory maximum term set forth in 18 U.S.C. § 3583(b)(3). We **AFFIRM** the judgment in all other respects.