

DEC 14 2009

MOLLY C. DWYER, CLERK
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NOT FOR PUBLICATION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>JACK DEAN WALKING EAGLE, AKA Jack Deon Walking Eagle,</p> <p style="text-align: center;">Defendant - Appellant.</p>
--

No. 08-30070

D.C. No. 4:07-CR-00099-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Jack Deon Walking Eagle appeals from his 271-month sentence imposed following his guilty-plea conviction for assault with intent to commit murder, 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 18 U.S.C. §§ 1153(a), 113(a)(1), and use of a firearm during a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Walking Eagle'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 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**, and the district court's judgment is **AFFIRMED**.