

DEC 16 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NOT FOR PUBLICATION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.

HERIBERTO MARTINEZ-CHACON,

Defendant - Appellant.

No. 08-10556

D.C. No. 2:08-cr-00783-GMS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, District Judge, Presiding

Submitted November 17, 2009**

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

Heriberto Martinez-Chacon appeals from his guilty-plea conviction and 52-month sentence for attempted illegal reentry after deportation, in violation of 8 U.S.C. § 1326.

* 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).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Martinez-Chacon's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. Martinez-Chacon has filed a pro se supplemental brief requesting an evidentiary hearing, the Government has filed a motion to dismiss instead of an answering brief, and Martinez-Chacon has filed a pro se response to the motion to dismiss.

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**, all pending motions are **DENIED**, and the district court's judgment is **AFFIRMED**.