

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 23 2009

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

D'ANGELO DOMINGO DAVIS,

Defendant - Appellant.

No. 09-10167

D.C. No. 2:98-cr-00114-FCD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, District Judge, Presiding

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

D'Angelo Domingo Davis appeals from the aggregate 728-month sentence imposed upon a second remand, following his jury-trial conviction for four counts

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of armed bank/credit union robbery, in violation of 18 U.S.C. § 2113(a), (d), and three counts of using a firearm, in violation of 18 U.S.C. § 924(c)(1). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Davis' counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. Davis has filed objections to counsel's motion to withdraw and a pro se supplemental brief. The government has not 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**, and the district court's judgment is **AFFIRMED**.

Davis' motion to file a late pro se supplemental opening brief is **GRANTED**. The Clerk shall file the brief received on December 1, 2009.