

DEC 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NOT FOR PUBLICATION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.

EVERADO ZAVALA-ORTIZ,

Defendant - Appellant.

No. 08-50472

D.C. No. 2:07-cr-01410-FMC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Florence-Marie Cooper, District Judge, Presiding

Submitted December 15, 2009**

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

Everado Zavala-Ortiz appeals from his jury-trial conviction and 30-month sentence imposed for possessing contraband in prison, in violation of 18 U.S.C. § 1791(a)(2), (b)(3).

* 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).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Zavala-Ortiz'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 affirm, but remand to the district court for the limited purpose of correcting the judgment to reflect that Zavala-Ortiz was convicted by jury trial, rather than by guilty plea.

AFFIRMED; REMANDED TO CORRECT THE JUDGMENT.