

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 07 2010

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAVIER GOMEZ-PEREZ, AKA
Francisco Perez Gomez, AKA Antonio
Hernandez, AKA Javier Gomez Perez,

Defendant - Appellant.

No. 08-10271

D.C. No. 2:07-cr-01307-DGC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David G. Campbell, District Judge, Presiding

Submitted December 15, 2009**

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

Javier Gomez-Perez appeals from his guilty-plea conviction and 51-month sentence for illegal re-entry 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 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), Gomez-Perez'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. Gomez-Perez has filed a pro se supplemental 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.

The government has filed a motion to dismiss the appeal on the grounds that Gomez-Perez waived his right to appeal. We grant that motion.

Accordingly, counsel's motion to withdraw is **GRANTED**, and the appeal is **DISMISSED**.