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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BARRY SCOTT TOLBERT,

Defendant - Appellant.

No. 07-50463

D.C. No. CR-00-00298-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.

Barry Scott Tolbert appeals from his guilty-plea conviction and 240-month mandatory minimum sentence for conspiracy, possession with intent to distribute

* 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).

and distribution of cocaine, cocaine base, and methamphetamine, and aiding and abetting, in violation of 21 U.S.C. §§ 841(a)(1), 846 and 18 U.S.C. § 2. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Tolbert'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**.